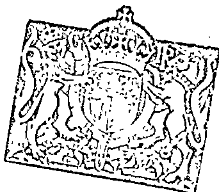


Indian Round Table Conference

12th November, 1930 19th January, 1931

PROCEEDINGS of SUB-COMMITTEES

(Volume I)

[SUB-COMMITTEE No 1 (Federal Structure)]

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INTRODUCTORY NOTE.

Proceedings of the Indian Round Table Conference in plenary session, and in Committee of the whole Conference, are contained in a separate volume, the Introductory Note to which explains, briefly, the procedure adopted by the Conference.

Proceedings of Sub-Committees are contained in nine volumes as below:—

Volume I.—Federal Structure.
,, II.—Provincial Constitution.
,, III.—Minorities.
,, IV.—Burma.
,, V.—North-West Frontier Province.
,, VI.—Franchise.
,, VII.—Defence.
,, VIII.—Services.
,, IX.—Sind.

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INDIAN ROUND TABLE CONFERENC

SUB-COMMITTEE No. I.

(Federal Structure.)

The Sub-Committee was constituted as follows.—

Lord Sankey (Chairman)
Mr. H. B. Lees Smith.
Sir Samuel Hoare.
The Earl Peel.
The Marquess of Lothian
The Marquess of Reading
H H The Nawab of Bhopal.
H.H. The Maharaja of Bikaner
Sir Akbar Hydari
Sir Mirza Ismail
Colonel K N Haksar

Sir C P Ramaswami Aiyar.
Mr M R. Jayakar.
Mr. M A Jinnah.
Mr. T F. Gavin Jones.
Diwan Bahadur Ramaswami Mudaliyar
Sir Sayed Sultan Ahmed.
Sir Tej Bahadur Sapru
Sir Muhammad Shafi
Mr Srinivasa Sastri
Sardar Ujjal Singh.

In addition, Sir B. N. Mitra attended most of the meetings of the Sub-Committee.

The following Heads of Discussion were referred to the Sub-Committee:—

(1) The component elements of the Federation

(2) The type of Federal Legislature and the number of Chambers of which it should consist.

(3) The powers of the Federal Legislature

(4) The number of members composing the Federal Legislature, and if the Legislature is of more than one Chamber, of each Chamber, and their distribution among the federating units

(5) The method whereby representatives from British India and from the Indian States are to be chosen.

(6) The constitution, character, powers and responsibilities of the Federal Executive

Nos (1), (2) and (3) were dealt with in the Interim Report and remainder in the second Report.

PROCEEDINGS OF THE FIRST MEETING OF SUB-COMMITTEE No. I (FEDERAL STRUCTURE) HELD ON MONDAY, 1ST DECEMBER, 19[illegible] AT 11 A.M.

Introductory and Classification of Federal Subjects.

Chairman: Gentlemen, the position is this, that at present we have had referred to us items 1 and 2 of the Heads of Discussion: Item 1 reads "The component elements of the Federation", and item 2 "The type of Federal Legislature and the number of chambers of which it should consist". My ambition is that we should create a scheme or heads of discussion which will result in a happy and prosperous India, and an India which is largely self-reliant.

I have been looking at these two heads and personally I have come to the conclusion—and I want to speak to you, if you will bear with me, for about a quarter of an hour—that it is very difficult for us to make up our minds as to items 1 and 2 unless we also, while we are doing it, consider to some extent item 5, which concerns the powers of the Federal Legislature, and item 6, which is the constitution, character, powers and responsibilities of the Federal Executive. At the present moment these matters have not been referred to us, but I do not propose to allow red tape to stand in the way of the future happiness of India, and therefore in the few remarks I want to make to you I shall also refer to items 3 and 6 in order to arrive at a proper conclusion with regard to items 1 and 2.

You must remember that this is one of those cases where it is extremely difficult to be logical. Somebody may say that it is no use discussing A unless you first of all decide B and somebody else may say, perfectly logically, that it is no use discussing B until you know what you are going to do with regard to C. The last bit of logic is that somebody comes along and says that it is no use discussing C until you know what you are going to do with regard to A. All that is perfectly true, but you must begin somewhere, and therefore I should hope that in anything that we do here at present, while we must begin somewhere, we shall realise that everything at the moment is provisional. For instance, if we begin with A it may be when we discuss B we shall want to [illegible] A a little, and so on.

The next point to which I want to draw your attention [illegible] It may be—I do not say it will be—that the [illegible] little difficulty in giving their opinion as to A. [illegible] they would like to hear what the Hindus have to say with regard to A, and the Hindus may say that they would like to hear what the Muhammadans have to say with regard to A. I [illegible], therefore, you will pardon me if I say first of all what I think with regard to A, B and C, and then you can criticise it afterwards. I [illegible] want in any way to give my final personal opinion [illegible] you do, but somebody must begin, and therefore, [illegible]

me the honour of appointing me your Chairman, I think I l better take the responsibility. I will therefore address you qu briefly, if I may, with regard to the whole matter, and then a you to come down to details.

First of all, you will recollect that I ventured to put before you when I was talking about the component elements of the Federa tion, a certain document which has since been circulated. Person ally, I feel it very difficult to say what would be the best way of dealing with the component parts of the Federation unless I first of all have some sort of idea with regard to the particular subjects that they might have to deal with. For instance, it might rather influence my view as to how the component parts should best be made if I knew the sort of things they would be likely to deal with

With regard to that point—the component parts of the Federation, the actual structure—I suppose that the simplest form of legislature (I am not saying it is the best by any means, I am simply now thinking aloud) would be one which was unicameral or bicameral, which comprised representatives of all the federal units, that is to say representatives of the Provinces and representatives of the States Later on—not now—you would have to decide the numbers and also the method by which you might suggest that the particular representatives should be appointed

I should like to think aloud for a moment, but only to dismiss it, because this is a separate subject It might be you would say that with regard to the Provinces it is necessary to arrive at some sort of basis for deciding the number of representatives to which they would be entitled All sorts of ways have been suggested I should like to give an example It might be said that in order to compare the provinces one must consider area and population; area and having done that one would say, counting so many units for giving a hypothetical example—ought to have x representatives and Bombay ought to have y representatives. That is the way I think it was done both in Canada and Australia, the precedents of which I have looked into.

The next thing to consider would be this. I am making only a general speech now, to get the whole matter before us. We should have to consider the position of the States. What about the States? The first point you would have to consider would be this You would have to say—again I am only thinking aloud—" Ought the number of representatives from the States to be the same as the number of representatives from the Provinces, or is the proper thing to say, having regard to the area and the population of the States, that the number of representatives they ought to have might not quite so many? ,, Perhaps you will forgive me again, because we are now getting down to what I call brass tacks, if I put the matters quite plainly before you. You might say that there are some States which are so large in area and so large in population that they would always have representatives upon the

Federal body. Merely to give an example, that might be the case with States like Hyderabad, Mysore and Kashmir. With regard to the other States you might say that as they were smaller you would have to put those which are geographically near one another together for the purpose of getting representation.

There is one other point I should like to mention in this connection. In addition to area and in addition to population you may have to consider what I call the human element. You may say that provision ought to be made in a Federal Chamber like this for the human side in this way. You may say Hyderabad is certainly entitled to x representatives and that Mysore is certainly entitled to y representatives, and that Kashmir is certainly entitled to z but it might be wise of you to say—I do not say it would be; you have to consider that later on—that some people should be elected. I am giving only hypothetical figures now, but if you came to the conclusion that the proper number was 50 you might say certain States like the big ones I have mentioned are entitled to numbers which will make up 25. You might say 15 would go to the remainder, making 40, and then you would say that there are some States which, although they are small in size and small in population, yet are known to contain men of very great capacity who ought to find a place; and you might say that ten seats should be reserved for that sort of thing. There are two precedents for that; there is the case of the League, and there is the precedent we have here with regard to the election of Scottish Peers to sit in the House of Lords.

So far with regard to the representatives; now let me go on for a moment. The simplest form of legislature would be the unicameral or bicameral legislature comprising representatives of all the Federal units—the Provinces and the States. Such a body would deal with matters of common concern.

Let me stop for a moment at those words " common concern ". There are, I conceive, certain subjects which are the common concern of all India, and I should like, if I may, to call them in the future (I am quite sure I shall not, because it is rather difficult to keep these constitutional terms always in mind) Federal subjects. There are certain matters of common concern for all India which are Federal subjects. There may be for the moment—I do not anticipate the future, but I rather hope, though I do not want to be a prophet and I do not want to go wrong, that things will change later on—that there are certain subjects of common concern which are not for the moment, so to speak, all India subjects, but British India subjects. It may be that just at present there are some matters of common concern which will have to be regarded as British India subjects. I will give you examples later on. For the moment I should like to call them Central subjects, because they are subjects which concern British India and which for the moment, perhaps, do not concern all India, though personally I hope that as the months pass by the two will be fused.

There being certain matters of common concern, in consid
a Federal constitution and in considering how to deal with
for the moment I may call a Federal Assembly, you would at
have to deal with those two aspects (*a*) Federal subjects and
Central subjects I am not going to discuss that for the mom
there are all sorts of ways of doing it. I should, however,
to say that it is possible—I do not want to express any opinion
present—that the more you provincialise subjects the less trou
you may have with the Federal body I know the difficulties,
not misunderstand me. I am not expressing any opinion, but
think you will find it is true that the more you provincialise t
easier your task will be at the Centre That does not at all mea
that you must provincialise everything; I simply want you to bea
that in mind. That is the simplest form of legislature

Another possible solution would be a three-cornered arrangement: a Federal Assembly dealing with matters of common concern to all India, an Assembly dealing with those British Indian matters which are not provincial and that might involve an assembly dealing with matters of common concern to the States That is another possibility I have read a scheme which is put forward by a very distinguished gentleman who is at present sitting at this table, and we shall have to consider it.

A third possibility is a Federal body comprising representatives from the Provinces and from the States, and a Legislative Assembly for British India only That is put forward by another very distinguished gentleman, who I am glad to say is sitting at this table, and we shall have to consider that

It will be realised, however, that it is difficult to consider these suggestions very effectively in relation only to the Legislative body, and it really follows, I think, that it is very difficult to do this in the abstract. No purpose will be served by considering *in vacuo* and as an abstract proposition, possible types of Federal structure and possible permutations and combinations of the elements which are to federate I think the question can be answered satisfactorily only with reference to a list of the subjects which might or should be treated as Federal subjects, and I want, if I may, to make a few remarks upon that and then to bring you at once to the paper that I have had circulated

With regard to those subjects I want to say a word or two I have been considering them very very carefully, and I think possibly there are some five or six heads, some of which are outside our purview to-day, and which I therefore, only mention in order to get rid of them for our present discussion. If you will kindly make a note of these I shall be glad—not that I want you to make a note of everything I say, because that would be ridiculous, but I simply want to get before us at the very beginning a category of subjects. I do not say it is a right one, but it is simply to clear our minds.

For one, there may be a category of what I call Crown subjects For the moment I am not going to discuss a single one of them,

because it is outside our terms of reference, but I simply want to indicate an example of them. Crown subjects. Defence and Foreign Relations.

The next thing I want is the second category of subjects, which I am going to come to in a minute or two, with your help, at very great length. I call the next category the Federal subjects. I only want to give an example or two there, because I am coming soon to set them out with your help. For example: Customs, Railways, Posts and Telegraphs.

I now want to say a few words to the Princes, if I may, in my next remarks, because they come under this head. I am speaking here, I hope, quite independently. I am certainly not a Prince, and I am not a Hindu, and I am not a Muhammadan. All I am doing is to try to put before you, quite independently, matters for discussion. Might I venture now to say a word to the Princes. With regard to Federal matters of common concern, may I suggest to Your Highnesses that there is a distinction between powers of legislation and powers of administration. I should be glad if you would kindly make a note of that. For example, I can quite conceive of one of Your Highnesses not being perhaps ready to give up powers of administration; for example—I am only thinking aloud, you know, and I am doing the best I can—and I see the difficulty from many points of view, and also from the *amour propre* point of view—that means a good deal, you know, in human affairs—of, say, Hyderabad letting some Government official come into its State for the purposes of customs. Now, as an illustration, you would like to think of what is reserved for yourselves. It is a very important part; in fact, in some ways it is the most important part of the lot. Mr. Lees Smith is sitting next to me, and Sir Samuel Hoare and the Marquess of Lothian. I sometimes hear people say that the London County Council, which does the administration, is much more important than the House of Commons or the House of Lords, which do the legislative part of the work. It may, therefore, well be that the Princes will consider that administration is a matter which concerns them very greatly, but that legislation stands on rather a different footing—legislation for all India—and, therefore, when we come to consider that class of question, the Federal questions, I am sure that the Princes will bear that in mind.

The next category is No. 3. These are subjects which may concern British India only. I do not know quite what to call them. I call them, for want of a better word, Central British India subjects, to distinguish them from Federal subjects. I again say that possibly No. 3 might merge in No. 2, but I am not a prophet. Let me give you an example: Criminal and Civil Law. As you all know, I was for a goodish number of years a judge in England—about 20 years. With regard to the Criminal Law, I do not know so much about your system in India as I know about our own, but I was thinking there of questions like fugitive offenders, people who commit an offence, we will say, in a

Province, and escape into a State. I will not deal with that for the moment; I am simply putting it down as an example

The next subjects—which again I am going to avoid, and which are not within the terms of our reference at all—are Category 4, Provincial subjects I
The examples I am giv
ment of India Act, wh
is called "The Gover
The Government of In
under and Index." It was printed at Calcutta by the Government of India Central Publication Branch, in 1924, and I am referring to page 202 At page 202, there begins the list of what are called "Provincial subjects", and I am only going to give two or three examples. 1 is Local Self Government. I will not take them in order. 3 is Public Health. 26 is Industrial Matters—Factories, Settlement of Labour Disputes, Electricity, Boilers, Gas, Smoke Nuisances, Welfare of Labour, etc. Altogether there are some fifty. That is the third category, but we are not concerned with that here. It may be that the best plan will be—there again I do not want to intrude my own views—that if we could come this afternoon to items Nos. 7 and 8 in my Heads of Discussion, "Powers of Provincial Legislatures" and "Constitution, Character, Powers and Responsibilities of the Provincial Executives", it might be that that sort of thing could be sent to a Committee at once You have been here now some weeks, and I am so anxious to get a real "move on".

The next category is this. It is rather a difficult category, and I do not know quite how to express it. I call it "Provincial Governors' Powers". That is No 5 Now, it is very difficult for me to explain this, and very difficult for me to say much about it, and therefore I only want to do it very shortly, and to ask you to take down two words. I do not know whether it is right. I do not know whether it is wrong, but I am thinking of two things: (1) Emergency Powers, and (2) Over-riding Powers. I do not want to express any opinion upon either of those two points. It may well be that neither of them will enter into our deliberations—I will not say that: it may be that neither of them will enter into our decisions—but you all know the sort of things I mean, and when I come to them I will explain them a bit better. The one I want to take is the last one, and if you will kindly take a note of that, No. 6, Debatable Matters, I mean that there are some matters which we can quite easily put into these categories, but when we come to debatable matters, what I want to do is this. I am now going at once to get down to details, and I am going to leave the clouds and try to come down to the earth, and if we have any difficulty about any particular matter, I do not want at the moment to spend a long time over it, but I want to put it into the "debatable" class, and then we will come back to that debatable class and get the subject taken out of the debatable class and put into the class which you think, and which we all think, is its appropriate category.

I have already been speaking far too long, and I want to come down, if I may, to item 2. I do not mean item 2 of the Heads of Discussion, but item 2 of these categories—Federal subjects.

If you will let me just detain you—I apologise for being so long—for another two minutes, we will come right away to that. Now, these are general remarks which I am going to make at the introduction to getting No. 2 into order. Federation, as commonly understood, would imply the submission by the federating units to control in the management, or to the management on their behalf, of a number of subjects of common concern, the management of those subjects thereby becoming the function of the Federal Government and Legislature. The precise subjects allocated to the Federal Government differ in different federal constitutions, but taking the list of Central subjects now in force in British India—stop a moment: by those Central subjects I mean those items in category 3—taking the list of several Central subjects now in force in British India, there are few, if any, of them which would be excluded from the purview of the Federal Government in any normal federation, and it is because of that that I said to you that, although for the moment, possibly only for this next two or three months, we may have to have sub-division 3, I should hope that that sub-division would cease to exist in course of time.

Might I finally say one thing, and then I will come to the absolute details. The human brain is always liable to make mistakes. You will remember that one of the best codes drawn up—this is only a matter of opinion—was Napoleon's Code. I have been looking into it. As a matter of interest to you, although not to frighten you, I think it took 87 sittings to do it, and I think Napoleon himself presided at 35; but even they felt that they were not sure whether they had included everything. You know, the wants of society are so various that the legislator cannot provide for every contingency, and, therefore, the remaining thing is always the thing known as the residual powers. If you only think carefully enough, and if you only take sufficient time, residual powers ought not to bother you very much, because you ought to do everything and put them into the proper categories; but, as I say, human memory is not perfect, and generally there is put in every constitution a clause dealing with residual powers, which was really meant, if you read up the authorities, originally to provide for something you had left out. In Canada, as you know, the residual powers are in the Centre—that is, under the British North America Act of 1867. In Australia, they have done the other thing; the residual powers are in the Provinces. When we come to that question, I hope you will bear with me for a few minutes—it will not be just yet—if I tell you something more about it; but what I do want to point out to you now is this, that the more care you take in putting everything into its proper category the less trouble you will have about residual affairs at the last. May I say one final personal word on that. It falls to my lot to preside over the Privy Council for Colonial Appeals. I have had a great

many Canadian appeals during the last 18 months, and the most difficult question we have on those appeals is to say whether the matter belongs to the Provinces or whether it belongs to the Centre —where you get overlapping jurisdiction. It sounds simple enough Wait till you try it!

Now may I come down, with your help, to category 2. I am going very slowly here, because I am now going to ask you to put down in that category what we think are central subjects.

Will you take this document. Let us have a look at it. It is not the slightest use, when we are considering a constitution like this, to say "We have all read it, and therefore let us go on to something else." Let us be sure about it Will you please look at (1). This puts out Central subjects as distinct from Provincial subjects, although there may be some of these subjects here which are Crown subjects, as I have pointed out to you. Let us look at (I); Central subjects. "(1) (*a*), Defence of India and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's India Marine Service, or with any other Force raised in India other than Military and armed Police wholly maintained by Local Governments." I am very much obliged to Mr. [illegible] have not drawn up these partic[illegible] evolution Rules which you will [illegible]ernal relations, including natu[illegible] beyond India. (3) Relations with States in India (4) Political charges."

Will you draw a line under (4). Now I want to come to the next one and, if you think it right, to put it, or to put any of these which follow, into category (2); that is to say, matters to be dealt with by the Federal Authority.

I want you now, please, to do this. I have finished my talking. It is up to you now to give me your opinions, and what I shall do is to read each one of these, and if nobody makes any remark about it I shall assume that you are all putting it into the matters of Federal concern.

"(5) Communications to the extent described under the following heads, namely, railways and extra-Municipal Tramways in so far as they are not classified as Provincial subjects under entry 6 (*d*) part II of the Schedule." You know what that is. "Aircraft, and all matters connected therewith. Inland waterways to an extent to be declared by Rule made by the Governor-General in Council or under legislation by the Indian Legislature."

Now, does anybody want to say anything about (5)?

H.H. The Maharaja of Bikaner: Are we settling the subjects?

Chairman: No. We are for the moment putting that provisionally into Category 2; but if you think there are absolute reasons why it should not go into Category 2 at all, let us know them now.

Sir Muhammad Shafi: I see no reason why extra-Municipal Tramways should be considered as a Federal subject.

Chairman: Sir Muhammad Shafi thinks that *tramways should* be outside Federal subjects. Will you please put *tramways* in "Debatable" for a moment. I will come back to that.

H.H. The Maharaja of Bikaner: With reference to the opening remarks of Lord Sankey, for which we are most grateful, I feel that perhaps some preliminary observations on behalf of the States, so far as I am aware of the general views of the Princes and States, and of our Delegation present here, might help to make some points clear. The Princes are entering into this discussion with an open mind, and I hope I may add, with a helpful mind; but, as we have indicated elsewhere, our willingness to consider Federation is subject to two essential and broad conditions, namely:—

(1) That India retains the British connection as an equal partner in the British Commonwealth of Nations; and

(2) That an equitable agreement is reached between all the parties concerned to govern relations of the two Indias—ensuring for the States their due position in the future constitution as co-equal partners with British India, guaranteeing their Treaties and internal sovereignty, and safeguarding their interests, including those of their subjects, on terms just and honourable alike to States and British India.

Any Federation must be subject to certain essential safeguards.

When the Princes at the Round Table Conference voluntarily said that they would consider entering into a Federal scheme, they were prompted by three important considerations. The first was their devotion to the Crown and friendship for the Empire; and they considered it necessary to examine the subject even if some sacrifices were involved on their part in view of the present grave situation in India. Secondly, they think it may, in the long run, also prove of some advantage in certain directions to their States and subjects. Thirdly, as Indians, they naturally desire to assist, in every reasonable manner, their country becoming a co-equal and honourable member of the British Commonwealth of Nations, and to help their brethren in British India to rise under the aegis of the Crown, to their full stature and to be masters of their own homes, just as the States wish to secure the fullest freedom in their own affairs, and, to retain or—in cases of some arbitrary decisions by agents of the Crown—to regain, their Sovereignty and internal autonomy as implied by treaties, sanads and other engagements.

The States lay emphasis on the importance of their being co-equal partners. They could not accept any position of the slightest subordination or inferiority to British India. They desire to share equally, and with honour, with British India any Sovereignty or Dominion Status which British India may enjoy on a Federal basis.

It is hardly necessary for me to make clear that the Princes came into political relations with the Crown through Treaties of "perpetual friendship, alliance and unity of interests," and

through other engagements such as sanads. As Lord Sankey has pointed out, the subjects of our States are not British subjects, nor are our territories British territory; nor, again, does British or British Indian legislation apply to the States. I do not wish to be considered in any way as saying anything improper, but it has to be borne in mind that the States in most cases were carved out by the strong arm and swords of their ancestors, and they were not grants from anyone. Thus the Princes have to be mindful of what they owe to their ancestors who founded their States, and what they owe to their Order—many of whom are not present here—and to their subjects and to their dynasty Therefore, in entering into any form of Federation, we are naturally anxious to safeguard overselves and not to agree to anything endangering the future [illegible]

I want to make one other point clear—about which apparently [illegible]

now Therefore, in agreement with the Crown, some guarantees and safeguards will have to be provided at this Conference such for instance as that the Princes' relations are with the Crown, that they cannot therefore be transferred to any third party without their previous consent, and express and willing consent; and that the Viceroy, and not the Governor-General, should in future deal with certain personal and dynastic matters subject again to certain safeguards and the settlement of such disputes in regard to claims of paramountcy put forward by agents of the Crown We are quite ready to consider, and as we have said, for us Federation has no terrors

In these matters your advice, My Lord Chancellor, and your suggestions will be particularly helpful and will be welcomed by us all The States clearly do possess internal sovereignty and autonomy, and enjoy a great measure of independence, whereas, as we have made clear, India and the Provinces at present only enjoy power by devolution or delegation—and that only in comparatively recent times. As Lord Sankey has pointed out, British India is at present a unitary State divided, for purposes of convenience, into Provinces, and not a number of Provinces federated to form a State. We feel that the position of the States in India and in the Empire is without parallel not only throughout the world but, I believe I am right in saying, in history. As special circumstances will require special measures then, so far as the States are concerned, I think it will be essential for us to devise something specially suited for the Federation of British India and the States, so far as the States are concerned.

In the Conference and in Committees I think it will be realised that we are not unreasonable in saying that so far as our Federa-

tion is concerned, we should evolve something which is special and suitable not only to British India bue to the particular position of the States. Possibly we will, whilst considering various known Federations, have also to see what we ought to settle in these special circumstances. Our willingness to consider Federation is, naturally, subject to this.

Coming now to the list of common matters, we are not doing anything in the way of secret manœuvring or anything of that sort, but the question of Federation has arisen. I will not say suddenly, but it has come on much quicker than I think many people realised, and it is very difficult for us to make up our minds finally or to put forward any cut and dried scheme. We want to know what British India wants. We want to know what are the difficulties of the problem. Our idea is that so far as Federal matters or matters of common concern go, we want to retain as far as possible the autonomy which the States at present enjoy. So far as our ideas go at present—I have said we are working with an open mind—as regards matters between the States and British India we want to limit the list as far as possible to a few matters, and to prescribe some rigid procedure of adding to the subjects later on.

Chairman: You want to add to the Federal subjects later.

H.H. The Maharaja of Bikaner: If the subjects which we have prescribed in the first place are found insufficient we want a rigid procedure laid down for others being added. The Princes do not want to be levelled down from their present position of internal sovereignty. If it is desirable and feasible to level up others, we shall be delighted, but we do not want to go down.

I make no reference specially to anyone present here. But there is a great deal said of ignorance in Great Britain regarding Indian affairs and Indian State affairs. I have been rather surprised to find how little is really known about our States by many British Indian Delegates. I do not wish to be misunderstood in any way, or to say anything implying the least unfriendliness, but I was rather amazed to hear, in private conversation the other day, a British Indian friend, who is a Delegate and who is not present here, proposing certain things which are obviously impossible for the States to accept. When I pointed this out to him he said "But that is the price of British India for permitting the States to federate." I pointed out in a friendly and respectful way that we were not here as beggars in sackcloth and ashes asking the favour of being permitted to federate, but that we were making sacrifices, including that of part of our sovereignty, to serve the three objects which I have just briefly enumerated. Therefore I think, without any desire on our part, and without I hope any desire on the part of anyone else, to manœuvre, or to play at bluff or bluster, or to quible, I think we ought, by mutual understanding, help and sympathy, to evolve something which will make the two Indias work in harmony under the aegis of the Crown.

When we take up the subjects, we shall have to say certain things, for instance about Defence, and so on. I do not know whether you would wish me to say them now or later on.

Chairman I thought we would come back to the first four

H H. The Maharaja of Bikaner There is only one other point which I specially want to mention arising out of what you said in your preliminary observations It is on the matter of the representation of the States We wish, when claiming an effective voice and representation in the Federal institutions, to emphasise the importance and need—in justice to the States and their subjects—that the representation of the States should not be based merely on area or population, but that regard must also be had to their internal sovereignty, their relations with the Crown, their political importance as one of the two separate great entities of India and also, to quote from the Simon Report, "Their existence and influence and the Crown's obligation in regard to them"

I will not enlarge upon the subject, but I will give you one instance There is a State which is classed as a comparatively small State, called Mayurbhanj, which rightly or wrongly is termed at present—and I believe it has not objected to being so termed—a Feudatory State. It has, however, I believe, an area of 4,000 square miles and a population of 900,000 If we are to do this merely on a population basis this State would have greater influence in the Federal Legislature than a Sovereign State, and that is the difficulty In this connection it is also necessary to point out that there are other important sections of India which are claiming weightage, and weightage for the States might also be a point that we should have to consider

Sir Tej Bahadur Sapru: I will make some very brief observations on the whole subject, if you will allow me to do so. I think at the outset we must recognise that the Federation which we are contemplating at the present moment is not going to be what is called technically a complete Federation And the difficulty of the situation is further enhanced when we remember that, at the present moment, of the units that contemplate Federation, one, namely the Indian States, has sovereignty, whereas the Provinces as they exist at present are not sovereign States. They may be made sovereign States by Acts of Parliament, but that is a different question altogether. Further, His Highness has just now made it clear, and I believe that is the general sentiment of the Indian States, that in regard to certain matters of a very vital character from their point of view they want to have direct relations with the Crown, represented in India by the Viceroy. These are the most material features of the Federation that we have in view at present.

The second question that I wish to raise, and on which I should like some light to be thrown by the Indian States, is this: assuming that we go on with the scheme of this incomplete Federation at present, what exactly is going to be their relation to the Legis-

lative machinery that we shall have to invent or create for the purpose of implementing this idea? To my mind, that is a very material and important question. What is going to be their position towards the legislative machinery we are going to set up for the implementing of this idea, because a great deal of the functions and the powers of the Legislature and its relation to the Executive will depend on how they propose to come into the Legislature.

Assuming that we are going to have a bicameral Legislature, which seems to me to represent the bulk of the opinion, I should like to know whether the Indian States propose to come into what I may for the sake of convenience call the popular House, the Lower House, or whether they propose to restrict their representation only to what for the sake of convenience I may call the Federal House. Assuming that they propose to come into both Houses, what provision are you going to make for deadlocks or conflicts which may arise between the two Houses? Assuming, on the other hand, that they propose to come into the Upper House alone, thus denying to themselves the right and power of representation in the popular House, what provision will they contemplate again for getting over conflicts or deadlocks which may arise between the popular House and the Federal House?

Further, I should like some light to be thrown on the question of what is going to be the relation of the Legislature to the Executive, and to whom the Executive is going to be responsible. These are very vital questions which affect the whole framework of the constitution. I have definite views on these questions, but I do not know whether it is necessary for me at this particular moment to express any opinion; I shall be guided by your ruling, Sir. I am only indicating the questions which are troubling me, and if Your Lordship thinks the time for expressing opinions on these questions should come later, I am willing to reserve my opinion.

Chairman: I think it is most valuable that we should get the opinions of everybody as soon as possible to guide us, and I am very grateful to you for what you are doing.

Sir Tej Bahadur Sapru: I recognise the anxiety and, speaking for myself, am in sympathy with the anxiety of the Indian States when they feel there are certain matters which they should keep out of the Federal constitution, matters affecting their dynasty and things of that kind. You will have to set up special machinery for that, and possibly that would be covered by what Your Lordship has been pleased to characterise as Crown subjects.

Confining myself to a Federal constitution of an incomplete character, I should very much like the Indian States to come into both the Houses, as that would simplify the working out of the constitution. Should there be any deadlocks or conflicts between the two Houses in regard to matters of a Federal character, or what you, Sir, have been pleased to characterise as Central subjects, I should provide for a joint session of the two Houses, more or less

on the same model as what is provided for in South Africa and in Australia. Personally, I favour the South African model more, as it is much simpler and does away with the intermediate stage of dissolution of the House Assuming that they agree to joint sessions, it may still be necessary for you to consider whether you will not, following the model of some modern post-war constitutions, prescribe a specified number of votes in the case of a vote of No-Confidence being moved. I am thinking of the modern Czehoslovak constitution, which prescribes that a vote of No-Confidence shall be signed by at least a hundred persons, and that there will be a certain number of votes which will be of a determining character. What exactly will be the number of votes in your constitution is a matter for discussion and argument. If you do that then you will create for the Executive a greater degree of stability than if you simply make it responsible to a majority of either the Lower or the Upper House

Of course, from a strictly logical point of view and from the point of view of recognised constitutional precedents, you cannot deprive what is called the popular House of its share in matters of a fiscal character or what you may call here Money Bills; but it may very well be that, having regard to the peculiar position in India, you may make the Executive responsible to both Houses, instead of making it responsible only to the Lower House I am again speaking from the point of view of the stability of the Executive. That is a matter for consideration.

Again, it may be that if the Executive loses the confidence of the Legislature in regard to what you have called the Central subjects or in regard to what you have described as the Federal subjects a position of peculiar difficulty may arise; and in a case of that character, again, I should have no hesitation in departing from the logical position of constitutional precedents, in view of the peculiar circumstances of India; I should in a case like that again call for a joint session of the two Houses to determine the life of the Executive by a joint vote upon the basis of a specified number. That is how I visualise the whole situation.

I should tell Your Lordship that I am speaking only for myself; I am not expressing the views of any particular party in this matter; I am taking only an individual line.

Coming to the Federal subjects, there is one question which will have to be made clear at the very outset, namely, what it is that we propose to do with regard to the Indian States That will be really for them to say, whether, generally speaking, they want to come into the Federation for legislative purposes only or for administrative purposes. It may be that in regard to many matters they may like to come into the Federation for legislative purposes, and in regard to some other matters for administrative purposes also; or it may be that at this stage they propose to come in only for legislative purposes. These are questions which I have no doubt the Indian States have been thinking over, but they will have to make the position quite clear. Speaking for myself again, I

recognise that the Federation we have in view is going under any circumstances to be of an incomplete character, and rather than go without it I should even welcome a Federation on limited lines, because that will, to my mind, very much simplify the whole position.

Take, for instance, one of the subjects to which Your Lordship has referred—railways and extra-municipal tramways. Personally, as regards tramways I am more in sympathy with Sir Muhammad Shafi than with the opposite view, but as regards railways it is conceivable the Indian States may like to federate in regard to matters of policy and legislation. It is conceivable they may like to federate not only with regard to policy and legislation but in regard to administration, including the revenue side of it. It is for them to express their opinion on this matter, because I anticipate that if you have a list of Federal subjects you will in any case have to provide for some Federal revenue or Federal purse; because it is no use having a list of Federal subjects without having Federal finances, and it will not do for the Indian States to federate only with regard to legislation, without there being the means to implement the policy of Federation. The question of Federal finance is therefore, to my mind, of the most vital character; and in determining the list of Federal subjects we shall have to bear in mind particularly those things which produce revenue, so that we can meet the necessary expenditure which is involved in implementing the Federal policy either in regard to legislation or in regard to administration or in regard to other matters. With regard to railways, therefore, I should like Their Highnesses to express their mind. As I have said already, if they want to federate completely with regard to railways, well and good; if they do not want to federate with regard to railways on every matter connected with the railways, even then well and good; I am not opposed to federation because they want to keep one particular aspect of a particular subject out of the Federation.

That is my attitude. I have expressed my views generally, and I reserve my right to express my opinions further with regard to each individual item.

Chairman: We are very much obliged to Sir Tej Bahadur Sapru for putting his views so clearly.

H.H. The Nawab of Bhopal: In order to be clear on one point, I should like to ask a question. Sir Tej Bahadur Sapru was speaking just now of joint sessions and of two Federal Assemblies. I should like to know what his idea was in the event of there being a vote of No-Confidence in both Houses with regard to Central matters not affecting the Indian States.

Sir Tej Bahadur Sapru: As I anticipate a united Executive, and as I am not prepared to favour dualism in the Executive, it follows from my position that whenever a vote of No-Confidence is moved, whether with regard to British India subjects or with regard to Federal subjects, there must be a joint session. My position is

open to the criticism that this indirectly gives a voice to the Indian States in the affairs of British India, but I am not frightened by that, because to my mind the question of the stability of the Executive is of far greater importance than logic in a matter of this character. It is only with regard to that matter, and because there is going to be one unified Executive, that I would have joint sessions whenever a question of No-Confidence is raised; but again I am expressing my own views and not the views of anybody else.

H H The Nawab of Bhopal: I am very glad to hear you are not frightened by our being in it, but I think we are a little frightened, and I want to make it quite clear that this would not imply a claim that because we have come into your affairs, which concern you, at some future time a reciprocal claim will be made by the two Legislatures to come into our affairs. I want to be quite definite about that

Sir Tej Bahadur Sapru · I am entering into no bargain of that character.

H.H. The Nawab of Bhopal: I want to know what the idea is

Sir Tej Bahadur Sapru: I fully recognise the position.

Sir Akbar Hydari: I originally intended to confine myself merely to item 5, and to say that I think the Indian States would come in with regard to policy and legislation. The debate, however, has now extended to more general points, and I should like to say a few words from that point of view.

I am afraid I
of view or fror
Bahadur Sapru.
propose to come into their House. I think the first question to be resolved is this We Indian States and the Provinces have decided to co-operate with each other and to build up a structure of a greater and united India, and we want to see what that structure should be. What I should like to do, therefore, is first of all to start with the Federal Legislature and to see how we all fit into that Federal Legislature So far as any Legislature for British India or the Legislatures or Governments of federating units like the States are concerned, the question would be of providing safeguards with regard to the powers and authority of those units.

First of all, you must construct the Federal Legislature. You must determine the subjects of common concern with regard to which the Indian States, for example, are prepared to part with their sovereignty or to delegate their sovereignty to a Federal
You must decide as to
Federal Legislature, and
the federating units—for
, but we want to know as
Legislature are going to
act or behave or to vote. We have got our own Legislatures, and so on, and we want to know how their voice will be made effective."

Well, I can quite understand Sir Tej Bahadur Sapru wanting that there should be some provision for the voice of his legislature being effective, but I cannot understand how you first create an Upper House and a Lower House for British India and say, "Well, these are our Houses, and you people may come into the Lower House if you like; you can come into the Upper House if you like, and then if you do not come into the Lower House, we will give you a joint session of the Lower House and the Upper House." That approaches the question from another point of view entirely, and I submit that that would give to the Indian States that position of inferiority and subordination against which His Highness of Bikaner rightly protested. I submit that all that the Indian States can think of is to provide machinery whereby if any decision of the Federal House is one which, to the knowledge of the British Indian representatives, might not be quite acceptable to the British Indian legislatures, there should be provided something in the form of a safeguard as one that is asked for by one of the federating units—namely, the Provinces of British India—just exactly as the Indian States will also ask for safeguards in the form, for instance, of suspensory powers of the Crown, or revision by the Crown, and so on. The Indian States would also ask for safeguards against a decision of the Federal House obtained by a snatch vote, or whatever it be, because we recognise that in the Federal House we shall be in the minority.

I trust I have made myself clear as to what we feel. At all events, I am speaking for Hyderabad, and along with Hyderabad I think I am speaking for several States. We feel that it would not be right for us to approach the problem first from the point of view of British India and their legislatures and to fit in our federal constitution with reference to their requirements.

This leads me to another question. As Sir Tej Bahadur Sapru said, with regard to money bills and so forth the modern trend of thought is that money bills must be passed through what is called a Lower House democratically or popularly constituted. That is so with regard to British India, but what I consider is that this question, so far as the Indian States are concerned, would resolve itself into a question of Federal finance. What you would have to see would be, what is the expenditure and what is its nature, what is the amount which will have to be provided for by, and discussed by, the Federal House, and then you have to consider what would be the kind of revenues which will be best able to meet this expenditure. It will have to be taken up in the end to ascertain how far those sources of revenue are of such a character that it is absolutely essential that they should go up, so far as British India is concerned, to their Lower House. The question is one for detailed exploration. Therefore the questions about railway revenue, and so on, would all depend upon that. We shall have first of all to find out what expenditure we have to meet, and secondly what is the best way of meeting that expenditure from sources of taxation or receipts which are of a Federal character.

Probably when you make this detailed examination you will find that the question becomes of such a character that it will impinge upon another enquiry which is very complicated, about fiscal and economic relations with Indian States. I say that for this reason, that there are certain matters—take customs for instance—with regard to which at least one Indian State has particular treaties whereby only 5 per cent can be imposed. Then when you have a common Federal fisc what will happen? What will be the total amount which will go to the Federal fisc and what will have to go to the Indian States and so on?. Therefore I should not like the question immediately before us at this stage to be complicated by this aspect of the enquiry.

There is one more point. I should like to remind this Committee—and I am very glad that you, My Lord, have very clearly put that in the paper which you circulated the other day—that most of the subjects of common concern are such that British India, unless it gets a transfer of authority from the Crown with regard to those subjects so far as they affect the Indian States' territories, cannot administer those subjects by itself. Take, for instance, railways. Take their railway, the G.I.P. railway, which passes through Hyderabad It has been allowed to run through Hyderabad Why? Simply because the Crown, as the Paramount Power, said that in the interests of India they required that railway to go through Hyderabad territory. Our powers of jurisdiction have been parted with on those grounds. In the same way, a large number of questions with regard to posts, telegraphs, customs—all these subjects of common concern—are such that jurisdiction with regard to them, powers with regard to them, have been parted with to the Crown as the Paramount Power, not to any administration which represents the people of British India alone, so that we could really demand that subjects of common concern, if you want your writ to run through our territories, should be administered by an authority on which we are equally represented.

I take the question of defence, although that is a Crown subject. We all have our own armies, and I am not referring to them, but with regard to the army in British India it has been calculated that 75 per cent. of the troops of the army in British India have been paid for and are being maintained by the Indian States. Will the Indian States not have any voice in regard to the discussion of Army subjects in regard to British India?

From all these points of view I should like to appeal to Sir Tej Bahadur Sapru in order to point out that the Indian States are coming in out of a patriotic desire, as His Highness said, in the first place to see that the whole of the Empire is maintained under the aegis of the Crown, and that, at the same time, we also want to pull our weight and to do our bit in order that a stable government in India may be ensured, and we want, therefore, that whatever legislature you establish should have, first and foremost, the idea of the Indian States and the British Provinces together, and not

Well, I can quite understand Sir Tej Bahadur Sapru wanting that there should be some provision for the voice of his legislature being effective, but I cannot understand how you first create an Upper House and a Lower House for British India and say, "Well, these are our Houses, and you people may come into the Lower House if you like; you can come into the Upper House if you like, and then if you do not come into the Lower House, we will give you a joint session of the Lower House and the Upper House." That approaches the question from another point of view entirely, and I submit that that would give to the Indian States that position of inferiority and subordination against which His Highness of Bikaner rightly protested. I submit that all that the Indian States can think of is to provide machinery whereby if any decision of the Federal House is one which, to the knowledge of the British Indian representatives, might not be quite acceptable to the British Indian legislatures, there should be provided something in the form of a safeguard as one that is asked for by one of the federating units—namely, the Provinces of British India—just exactly as the Indian States will also ask for safeguards in the form, for instance, of suspensory powers of the Crown, or revision by the Crown, and so on. The Indian States would also ask for safeguards against a decision of the Federal House obtained by a snatch vote, or whatever it be, because we recognise that in the Federal House we shall be in the minority.

I trust I have made myself clear as to what we feel. At all events, I am speaking for Hyderabad, and along with Hyderabad I think I am speaking for several States. We feel that it would not be right for us to approach the problem first from the point of view of British India and their legislatures and to fit in our federal constitution with reference to their requirements.

This leads me to another question. As Sir Tej Bahadur Sapru said, with regard to money bills and so forth the modern trend of thought is that money bills must be passed through what is called a Lower House democratically or popularly constituted. That is so with regard to British India, but what I consider is that this question, so far as the Indian States are concerned, would resolve itself into a question of Federal finance. What you would have to see would be, what is the expenditure and what is its nature, what is the amount which will have to be provided for by, and discussed by, the Federal House, and then you have to consider what would be the kind of revenues which will be best able to meet this expenditure. It will have to be taken up in the end to ascertain how far those sources of revenue are of such a character that it is absolutely essential that they should go up, so far as British India is concerned, to their Lower House. The question is one for detailed exploration. Therefore the questions about railway revenue, and so on, would all depend upon that. We shall have first of all to find out what expenditure we have to meet, and secondly what is the best way of meeting that expenditure from sources of taxation or receipts which are of a Federal character.

Probably when you make this detailed examination you will find that the question becomes of such a character that it will impinge upon another enquiry which is very complicated, about fiscal and economic relations with Indian States. I say that for this reason, that there are certain matters—take customs for instance—with regard to which at least one Indian State has particular treaties whereby only 5 per cent can be imposed Then when you have a common Federal fisc what will happen? What will be the total amount which will go to the Federal fisc and what will have to go to the Indian States and so on?, Therefore I should not like the question immediately before us at this stage to be complicated by this aspect of the enquiry

There is one more point. I should like to remind this Committee—and I am very glad that you, My Lord, have very clearly put that in the paper which you circulated the other day—that most of the subjects of common concern are such that British India, unless it gets a transfer of authority from the Crown with regard to those subjects so far as they affect the Indian States' territories, cannot administer those subjects by itself. Take, for instance, railways Take their railway, the G.I.P railway, which passes through Hyderabad. It has been allowed to run through Hyderabad Why? Simply because the Crown, as the Paramount Power, said that in the interests of India they required that railway to go through Hyderabad territory. Our powers of jurisdiction have been parted with on those grounds. In the same way, a large number of questions with regard to posts, telegraphs, customs—all these subjects of common concern—are such that jurisdiction with regard to them, powers with regard to them, have been parted with to the Crown as the Paramount Power, not to any administration which represents the people of British India alone, so that we could really demand that subjects of common concern, if you want your writ to run through our territories, should be administered by an authority on which we are equally represented.

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start with your British Indian legislature first and see how the Indian States can fit in with that.

Chairman: I am very much obliged to you. You have put your points very clearly. I call upon Mr. Srinivasa Sastri.

Mr. Sastri: I labour under the difficulty that I am not a lawyer by training, much less a constitutional lawyer. What I say may therefore lack clearness and be very inaccurate, but, as a student of Indian affairs, I think I apprehend the views of a certain section of British Indians, and I should very much like, at this early stage, to put in a word of caution. His Highness the Maharaja of Bikaner has made a most important speech this forenoon, a speech for which we ought all to feel grateful as we listened to it with a great deal of profit as well as of interest. Personally, I regard this speech as laying the foundation of what we call federation between British India and the Indian States; but there were certain statements made in it—some theoretical, some historical, and in some places somewhat sentimental, if I may venture to say so—to which a great deal of attention should be paid before I personally could say whether I agreed to them or not. I should like to see them in type or in print before it may be assumed that the section of British Indians for whom I have the honour to speak has agreed to them.

With regard to the detailed questions about responsibility to the legislature, and the way in which deadlocks should be composed between the two Houses when they arise, or how fiscal relations between British India and the Federation should be organised—as regards all these points I expect they will all come up in detail one by one later on, and I propose to put in my own remarks each time as occasion arises; but before I conclude I wish just to say one word as regards the constitution. The present relations between Indian States and British India have grown up during a long period of administration, of treaties, and of what is called the growth of usage. Owing to these relations, a kind of unity and uniformity, if I may use the word, has arisen in the polity of India. Through political influence, or through other influence which has been hinted at by Sir Akbar Hydari, a certain amount of conformity has been imposed upon the Indian States with regard to large policies in India. If by anything that we do here to effectuate federation—an idea to which I have admitted that I have become a recent convert—if at this table we do something which may weaken those relations or alter their character, it would be necessary in my judgment, My Lord, that the Federation which takes the place to some extent of those relations should be of a solid and binding character. If that Federation is very loose, if it is very thin, if it is confined to a very small number of subjects, then those relations that have grown up, which have enabled British India and the Indian States to conform to each other's policy, will not have been efficiently and adequately replaced in our polity. It will be necessary, therefore, for us to examine at every stage whether the Federation that we establish can really bring about

this conformity and uniformity. As point after point arises, it may be with reluctance, I, for instance, acquiesce in the arrangement proposed, although I may not quite approve of it; I may think it is a weakening element. It is quite possible that at a certain stage, when these weaknesses have accumulated, it may appear to some of us that the point has been reached when Federation might not effectually take the place of those relations between British India and the Indian States that now subsist Should that stage arrive, you must allow some of us who have acquiesced in previous points to look back upon our action, and then to say, "Now, reviewing the whole situation, we find that our hopes have not been realised." You must allow us, therefore, to revise our verdict from time to time, and to be able to say at some stage, "Now we think that we have gone too far"

Chairman: Certainly; there is no doubt about that I am very much obliged to you for that suggestion. As I said at the beginning, these present things are all provisional It would be extremely absurd for us on the first day to enter into a lot of binding decisions, because what is the use of a Conference at all if you do that? What we will do, then, is this. I will tell you frankly what is my view with regard to it. Every now and then I think something is perfectly right, and then somebody makes a speech which convinces me that I was wrong We are not going to let India down like that. What we are going to do is this. We must start by saying what our opinion is. Forgive me for saying again that I have been a judge for a longish period in England, and very often during a case I have thought a thing was perfectly right, and when I have heard counsel I was quite sure that my opinion was wrong; and if you make provisional remarks you may be converted later on Please do not let us persist in convictions hastily acquired. You may want to change them, and what we all out for is to do what is right. I would far rather confess that I was wrong than produce confusion and misery in India

Mr. Gavin Jones: Sir, I very much appreciate what the previous speakers have so ably put before us, but I feel that before we get on to the structure of the Federal Government we should consider the broad principles on which we are going to federate. I think that when you put the component elements of the Federation as the first subject you were right, and that we really ought first to consider what the elements are going to be. The Princes have very rightly said that they want to know with whom they are going to federate. However, I will not go on to that subject, because I think it would be as well first to discuss what should be the principles of our Federation, just as other Conferences for the Federation of States have discussed them.

I have made a note of a few resolutions which I would like to put before you all here for your consideration and which we might possibly put up to the Committee. They are as follows:—

(1) That the powers and privileges and territorial rights of existing States shall remain intact, except in respect of such

surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

(2) That the trade and intercourse between the Federated States, whether by means of land carriage or coastal navigation, shall be absolutely free.

(3) That the power and authority to increase and collect Customs duties shall be exclusively lodged in the Federal Government.

Col. Haksar: Does that mean sea Customs duties?

Mr. Gavin Jones: Duties at the ports—sea customs.

(4) That the Military and Naval defence of India shall be entrusted exclusively to Federal Forces under one command controlled by the Governor General acting on behalf of the Crown.

There are others here, My Lord Chancellor, which we might consider, which are of a more controversial character, but I think we want to consider first these four fundamental principles of Federation, which would help a lot to clear the air.

Colonel Haksar: I have been preceded by six speakers; a very large ground has been covered, and a very large number of points have emerged from what has been said. There is no time to deal with every one of them, but I should like to deal with a few, in order to explain the positions of those in whose name I speak. I shall, therefore, briefly run through some of the points which arise on what has been said by various speakers. I shall first deal with what fell from Your Lordship. Your Lordship dealt with the paper which contains the twelve heads for consideration, and you pointed out that several of the heads were so closely connected with each other that it was impossible to deal with one conclusively and finally and avoid the necessity of going back to such a subject without dealing with another one. That is perfectly true. Then you came to the paper, which was handed to us this morning, showing the list of central subjects taken out of the Devolution Rules under the Government of India Act.

The first point I wish to deal with is as to what is possible and what is not possible in connection with the problem of Federation and the States entering into it. Your Lordship will permit me to remind you that you expressed the hope that it might be possible, if not immediately, within a short time, that the distinction between Subjects (2) and (3)—meaning Federal Subjects and Central Subjects—might disappear. What the future has in store for India it is extremely difficult for anybody to anticipate; but so far as we know the mind of the States to-day, it seems to me well to say quite pointedly that there are subjects included in that list of Central Subjects which can never become Federal Subjects and cease to be Central Subjects. For example, if you look down the list you will find item No. 16, " Civil Law, including laws regarding status,

property, civil rights and liabilities, and civil procedure." I cite that as one instance I think it is appreciated by everybody, and conceded, that in consequence of the constitutional position of the States, their history and their political position, they rightly desire to retain their internal autonomy That being so it is perfectly obvious that in regard to these matters they must continue to legislate for themselves, as they do now and have done for the last hundred years and more.

Then at one stage, dealing with the characteristics of Federation, your Lordship read from a paper in which occurs the word, in connection with a description of the ideal of Federation, namely "Control." I should like to explain what can possibly be meant by "Control," and I can illustrate what is in my mind by reference to the present existing position. How has the idea of Federation come into being? It has come into being in consequence of the fact that, as Mr. Sastri said, for a considerable time, and more particularly since the Government of India Act of 1919, it has been possible for the Executive Government of British India, and the Legislature of British India, to pass measures which affected the States without the States having had any opportunity of expressing their opinion or of pointing out how those measures affected their interests. It has been recognised by everybody that this position is extremely unfair. As a consequence it was realised that the States must have a voice, and an effective voice, regardless of their importance in the polity of India, in matters which affect them. That of course at once raises the question of what are matters of common concern to them and British India. Therefore we are going to discuss what should be Federal subjects in the future. But coming back to my point as regards control, I would like to cite Sir Akbar Hydari, who said that if a Federal constitution is going to be set up in India it is not going to be a constitution initially set up in and for British India which the States should join I am using a phrase which comes uppermost in my mind, not in all its implications; but if a Federal constitution is to be set up I think it must be realised that it can only result—it is rather an objectionable phrase, but it illustrates my point—from throwing the present position into the melting pot, and then construct it again in recognition of the fact that there are so many common interests. The Federal Legislature, or the Federal constitution, would come into being not so much to reconcile conflicting interests as to enforce policies which are based upon a consideration of all rights I would not merely like to refer to what His Highness of Bikaner said, but I would like to add that His Highness fully expressed the mind of the States—in general, of course, he did not try to be specific If I might say so with all respect, I think he was wise not to be specific at this stage, but he gave the attitude of mind of the States in regard to this problem of Federation.

From that I would come to certain things which Sir Tej Bahadur Sapru said. What he said really raised the question of the character of the Federal constitution of the future For example, he asked

the question—a perfectly legitimate question—Will the States come into the Popular House, or will they agree to come only into the Federal House? Whether the States come only to the Federal House (which they have said they are willing to do) or whether they will consent also to come into the Popular House must be treated as a matter for consideration. We are always speaking provisionally. We are always exploring the ground. I am not prepared to say one way or the other just now, because it is possible that reasons may be shown why it would be in the interests of the States also to go into the Lower House. Their present position may be taken to be that they would like to go into the Federal House only. That is assuming that the Upper House is purely the Federal House. But the important thing I wish to say is, that, whether the States go into both Houses or whether they go into one House only, it entirely depends upon the question where the power of decision in regard to Federal matters resides. If it can be assumed that the power to decide Federal matters would reside in the Upper House, the Lower House being the House to deal exclusively with Central matters—that is, British Indian matters—obviously there would be no necessity for the States to go into the Lower House. Again, assuming that the Federal constitution means two Houses, both Federal—that is the Lower House also dealing with Federal matters—then it would become a question for consideration whether in that event the States, who would have the right to be represented in that House, would abstain from exercising that right. There are only two other points to which I will refer, and then I will finish. Mr. Sastri referred to a conformity in regard to dealing with various matters which have come about in India to-day, and he was naturally perturbed at the thought of that conformity being disturbed. What I desire to point out about the conformity, or the so-called conformity, is this—that if that position were viewed in relation to actual facts it would be found that that so-called conformity has not resulted from any inherent power in the present Government of India, but it has either been voluntary on the part of the States or it has resulted from their consent. That is a very important consideration. Take the big question of railways for example. I think it would be admitted at once that there was no power in the Government of India at any stage, nor is there such a power in the Government of India, if it makes up its mind to construct a railway line, to call upon a State to concede the necessary land. I want this to be appreciated—that there never was such power, and there is no such power to-day. If a State failed to recognise the benefit which it might derive from any railway line which passed through its territory and declined to make the necessary land available, the line could not be constructed. In the past the lines which were constructed, and which to-day pass through the territories of the States, became possible because the States made the land available. That also applies to the question of jurisdiction. Jurisdiction is exercised over railway lines to-day as it is, because the States agreed to concede jurisdiction. I am not going to enter into the

present position either as regards making land available or as regards jurisdiction, because the facts may not be within the recollection or within the knowledge of certain people; but I would [illegible] is that it is recog- [illegible] retrocession

Last of all I will come to the [illegible] Finance, which is a very important question. Importance is naturally attached to the question of Federal Finance on the basis that everybody who thinks about Federation is bound to consider the question, how is a Federal form of Government going to be supported? How is it going to be carried on? Obviously there must be Federal sources of revenue, and just as we have got to schedule the subjects which are in the future to be Federal subjects, so have we also to schedule the Federal sources of finance, and then to judge whether the revenues yielded by those sources will be sufficient for our purposes or not sufficient for our purposes If not, how are the revenues going to be obtained?

As regards sources of revenue, those derived to-day by the Central Government are within the knowledge of everybody. I would merely mention the fact that those sources of revenue consist of forms of indirect taxation, such for example as Customs. I used the word "indirect" advisedly, because it is admitted that the Government of India have not the right to tax the subjects of the States, and yet by means, for example, of Sea Customs those subjects are taxed There is an indirect source of revenue to the Central Government which conceivably might be a source of revenue for the purposes of your federal constitution.

Take the railways. At present the Government of India take out of the railway earnings a sum of 6 crores of rupees Then there is the revenue derived from currency Just as we have to schedule our federal subjects, so also we shall have to schedule the federal sources of finance. In regard to this matter I want in particular to lay stress on this, that while we are sitting down to determine the sources of federal finance we shall have to consider to what extent the contributions of the State are clearly understood, as they exist to-day. In regard to indirect taxes, so far as the subjects of the States are concerned, those sources are known, as for example, Customs Anyone would admit at once that through Sea Customs the States make a contribution to the maintenance either of the Army or of the Central Government of India or of the whole structure of the Government as it exists to-day

But there are sources of revenue which are not so apparent and which are well understood. I will cite only one example, the case of the territory ceded by certain States. It may be for a certain purpose those ceded territories supply additional revenue to the common fisc additional to the revenues derived by means of railways, currency, customs and posts and telegraphs.

The point I am making is that this question of finance is a rather complicated one, and it is due to the States that it should

be realised that not merely what the States are to-day claiming is due to them under the present unitary form of government, in which all the revenues derived by the Government of India are retained by that Government, no part of them being handed back to the States. The position, I acknowledge, would be altered in a Federal constitution; it would still be necessary to explore this question of the financial contribution of the States for purposes of effecting an adjustment of the contributions to be made by the various federating units towards the cost of the Federal constitution.

Sir Samuel Hoare: I do not want to take up the time of the Committee for more than two minutes, but I should not like the Committee to adjourn before making one or two very short observations. First of all, I should like to say that I think this morning we have had the most valuable discussion that has so far taken place during the whole of the Conference. I have been extremely interested in the speeches that have been made. Without going into details with regard to them, they seem to me to show that Federalism is much more than an idea; it is much more than a means of escape from a difficult situation; it really is a practical proposition that we can afford to explore in detail. We have not had a single speech this morning in which any insurmountable obstacles seemed to me to be placed in our way, so that I think we have had a very valuable morning's work.

The other point that struck me very much was one suggested to me by Sir Tej Bahadur Sapru's speech. He went into some detail, in a very interesting way, with regard to the various lines of development, and I was very much struck when he said (I am now paraphrasing his words) that we must not necessarily be bound down by precedents restricted to this country at a particular period. He quoted the case of the Czecho-Slovak Republic, a very interesting case where the constitution was drawn up by a very old friend of mine, one of the wisest men in Europe, President Masaryk, which contains many new ideas. That gave me great encouragement. I am sure the project on which we are engaged is so big and so enthralling that we cannot look only to a distant mid-Victorian past, but must look to what is happening in the world at the present time.

I am obliged to the Committee for letting me say that. Let me end by stating that I take very much the position staked out by Mr. Sastri, namely that any agreement we make now must be provisional and dependent on our seeing the ultimate picture, and must also be provisional, in a case like my own, on my consulting with my friends outside and seeing how far I have public opinion behind me.

Chairman: Thank you very much; that is most useful.

H.H. The Nawab of Bhopal: I want to make a general observation with regard to the Federal Legislature. Mention has been made of the possibility of the States being represented in the lower

House, and on that I and, I believe, His Highness of Bikaner wish to keep an open mind.

Another point is that Mr. Sastri spoke of being allowed on some future occasion to recede from the position taken up. I want to add that our observations and willingness to consider Federation are also provisional only, we should like that to be made clear.

Colonel Haksar made one remark which I think requires a little elucidation. He said there were certain matters in the list which the States would not consent to be made Federal subjects. The point to be made clear, as we look at it, is that it is not the wish of the States to prevent the Provinces from getting these powers. The States do not wish to stand in the way; they will be quite happy if there is a levelling up, but there are certain matters which the States may not like to be added to the list as matters of common concern between them and the Provinces. Then Mr. Sastri made some remarks about how the position has arisen, and he pointed out that it has arisen out of the 1919 Act, in which powers were given to British India Legislatures to legislate for Indian State subjects in the States without their having any voice in the matter.

I want to add one sentence to that. They not only legislate, but they tax our people and utilise the revenue for purely British India purposes.

(The sub-Committee adjourned at 1 15 p m)

PROCEEDINGS OF THE SECOND MEETING OF SUB-COMMITTEE NO 1 (FEDERAL STRUCTURE) HELD ON TUESDAY, 2ND DECEMBER, 1930, AT 11 A M.

Sir Muhammad Shafi: My Lord Chancellor, speaking for myself I am in full sympathy with the anxiety of our Princes to guard against their own sovereignty, as well as the internal autonomy of their States, being in any way impaired as a result of [illegible] iture [illegible] ment [illegible] was adumbrated in the concluding chapter of the Chelmsford-Montagu Report twelve years ago. The joint authors there stated. "Our conception of the eventual future of India is a sisterhood of States self-governing in all matters of purely local or provincial interest. Over this congeries of States would preside a central government increasingly representative and responsible to the people of all of them, dealing with matters, both internal and external, of common interest to the whole of India, acting as arbiter of inter-State [illegible] equal terms [illegible] this picture [illegible]

The ultimate goal of constitutional evolution thus visualised by Lord Chelmsford and the late Mr. Edwin Montagu has been accepted

by the Simon Commission in paragraph 13 of their Report. And as their main contribution towards the realisation of this great ideal the Simon Commission itself proposed as follows in paragraph 27: "The scheme which we recommend in more detail in Part II completes the process of devolution. It aims at giving the maximum of provincial autonomy consistent with the common interests of India as a whole." Then further on they say: "It is our intention that in future each Province should be, as far as possible, mistress in her own house."

The step thus proposed by the Simon Commission towards the evolution of an All-India Federation is nothing new. In putting forward their proposal they have but followed the precedent of the Commonwealth of Australia. When the proposal thus put forward by them is carried out a community of interests will have been created between the autonomous States of British India and the Indian States which, in my view, will in itself be an adequate safeguard against any interference by the Federal Government in the internal affairs of the constituent States of the Federation, including the Indian States, matters of common interest alone being under the control of the Federal Government. It is true that possibly the Indian States may have to surrender some of their privileges to the Federal Government, but I venture to submit that they will be more than compensated for that possible surrender by the active part which they themselves will thereafter be taking in the Federal affairs of all India. They themselves will be one of the most important elements in that Federation. There is, therefore, no real ground for any misgivings on the part of the Indian States as to the part which they will play in the future development of our Indian constitution towards the proposed Federation. The real point for consideration is what are those matters of common interest which will be entrusted to the Federal Government, and in that connection, if I may say so, the Lord Chancellor enunciated yesterday what I regard as a very sound principle. He said: "The more you make provision for provincialised subjects, the less trouble you will have with the Federal body."

That is, I venture to submit, what we ought to keep in view in framing the list of Federal subjects. The ideal to be aimed at is that while all matters of common concern to the whole of India should be under the control of the Federal Government, all the rest should vest in the constituent units—the autonomous States of British India and the Indian States of Indian India. That would be a truly democratic federation like the federations of the United States of America, of Australia, of the Swiss and of the post-War Austrian Federations. In determining this group of subjects, the control of which will vest in the Federal Government, we must bear actually existing conditions in India in mind.

Here I want to give one illustration. We know that in the Southern Presidency of Madras, among certain communities, sisters inherit to the exclusion even of sons and daughters. In the North, we know that in the Punjab, customary law takes precedence

amongst agricultural tribes over their personal law. When in a country the position is as I have just described, we must not make a fetish of so-called uniformity. India is not a country; it is a huge sub-continent. In extent it is as large as the whole of Europe minus Russia, and its population, I believe, exceeds the population of the whole of Europe. That being the case, while it is true that every effort towards securing uniformity of laws should be made as far as possible, this desire should not be converted into a fetish.

Thus only shall we be able to maintain the internal autonomy of both the Indian States and the constituent parts of the Federation from British India. To do otherwise would be, I venture to submit, to bring into existence a centralised Federal system in which the dominant partner would have the same place as Prussia in the German Federation, and that ought to be avoided.

As I have already said, the crucial point in the whole case is really the question of what are to be the matters of common interest which are to be allotted to the Federal Government; and the sooner we proceed to discuss this group of subjects the better it will be, for it is time we came to close grips with the real point It seems to me that once we have determined this group of Federal subjects we shall be in a position to arrive at a correct judgment with regard to such questions as whether the Federal Legislature should be bicameral or unicameral, whether it should be responsible to the Central Legislature, either wholly or partially, and so on These questions can, I think, best be discussed after we have determined the group of subjects to be allotted to the Federal Government I therefore appeal to the members of the sub-Committee to come to grips with the real point at once instead of indulging in general discussion.

Chairman : Thank you very much, Sir Muhammad Shafi we are much obliged to you.

Diwan Bahadur Mudaliyar : My observations will be very brief, but I have to cover a somewhat extensive ground, because the point of view I wish to put forward on behalf of a certain group in Southern India was not put forward in the Plenary Conference. I should at once like to say that we from British India are at one with the Princes in desiring to express our loyalty to the King-Emperor and to the British Throne. I would go further and say that from the British Indian point of view, and more specifically from the point of view of the group that I represent in Southern India, it is not merely a question of sentiment and loyalty to the British Throne; it is more from the point of view of enlightened self-interest that we wish to be in the British Commonwealth of Nations. The idea of an Asiatic Federation has been mooted in some quarters, but I should like to say frankly on behalf of my party, that it is a mirage In any case it is a leap in the dark, and we would rather belong to the well-known British Commonwealth of Nations, with its known and ascertainable dangers, if any, than risk the unknown dangers and perils of any Asiatic

Federation. I put it merely as a practical proposition from our point of view, that if we can secure that equality of status and that dignity in the British Commonwealth which we desire, nothing will induce us to leave that partnership.

Having made that position clear from the British India point of view, I should like immediately to turn to the specific questions raised by Their Highnesses and by Sir Muhammad Shafi. What is this Federation? Their Highnesses and the Representatives of the States generally ask us with whom they are going to federate. I think, if I may venture to say so with great modesty, there has been a certain confusion of ideas on the subject. As I visualise the position, the Federation will consist of Provinces and of Indian States. It is not going to be a Federation of British India on the one side and of the States on the other. The Federal subjects are going to be matters of common interest to the Princes and to the Indian States. That is my view of the Federation, but at the same time I have to state that we realise that it may be found, when we come to a specific discussion of those Federal subjects on which Sir Muhammad Shafi has rightly laid emphasis, that the matters of common concern into which the States are prepared to enter at present are not so many that we can leave out of account altogether the idea of uniformity with regard to the British Provinces on which Mr. Sastri rightly laid stress. It seems to me that when we descend to particulars we may find the Indian States at this present juncture are prepared to come into the Federation only on certain subjects and only to a limited extent even in the case of those subjects. The helpful suggestion has been put forward by His Highness of Bikaner that we might devise a procedure whereby the scope of the Federation would be automatically enlarged in the course of time, but at the starting point I realise there may be difficulty in having as many federal subjects as we should like to have brought into this Federation.

Naturally a further question then arises. A certain amount of uniformity has been brought about in British India by years of arduous labour; are we going to wreck all that uniformity merely because the Indian States are not in a position at the present moment and immediately to come into the Federation to the extent that British India would like to come in? It seems to me, therefore, that at the present moment as a matter of practical politics we have to visualise two Federations; a large one comprising the Provinces of British India and the Indian States (I do not say British India and the Indian States, because to my mind that is a wrong nomenclature), and a smaller Federation consisting of the British Provinces alone. It seems to me that that is the line of development which ultimately this sub-Committee may have to consider.

So far as the Provinces are concerned, I, coming from Southern India, have a special grievance, much more acute than that of my friend Sir Muhammad Shafi, with reference to a centralised system of Legislation. "Delhi is far off" is a saying which has become an historic commonplace in India, and we in Madras are so far from

Delhi [illegible] feel we have a special grievance, [illegible] share of anything, whether it be [illegible] or whatever it may be. My fr[illegible] a question of Provincial autonomy that I am as much with him as he could possibly wish me to be in saying that that Provincial autonomy must be very real and effective. But, having said that, I must also immediately add that there are subjects on which all the Provinces should have some sort of uniformity of administration and legislation and that is why I say that apart from the Federal subjects, the group of subjects which you, Sir, have put forward as Central subjects will still exist at this stage of our deliberations with reference to the formation of a Federation, and, therefore, a Federal administration for the British Provinces will necessarily have to be evolved.

I agree that ultimately, as your Lordship pointed out, the goal should be the disappearance of this class of Central subjects or British India subjects altogether, and then all subjects will become Federal, so that in course of time this smaller Federation will automatically dissolve; there will be no Provincial Federation, but only one Federation and very real Provincial autonomy But as a transitional measure during the stage when the States are not prepared to come in in their entirety to the extent we should like to have them with reference to Federal subjects, there is bound to be this Provincial Federation or British India Federation inside the All-India Federation. If Their Highnesses are satisfied as to the basis on which they will enter now into this Federation, I should like immediately to go into the question of Provincial autonomy, which has a very real bearing on the aspect of Federation that my friend has dealt with.

My friend, Sir Muhammad Shafi, referred to certain differences in the laws in Malabar. For instance, it is perfectly true a sister inherits in preference to sons and daughters. At present the centralised government has made provision for these divergencies; the centralised Government and the centralised legislation is in respect only of those subjects which can be safely administered in all the Provinces with a certain degree of uniformity; and, where differences exist, local legislatures have been empowered to make rules for themselves which will not be of uniform application and which are designed to meet the specific needs of particular provinces I do not see any reason why that sort of Federation I have suggested with guaranteed Provincial autonomy and with legislative non-uniformity, may not still continue to exist to meet the needs of the several Provinces.

His Highness of Bikaner made a very interesting suggestion with which I do not wish to deal at any length at the present moment, but regarding which I should like to put forward a few thoughts His Highness suggested there might be a certain weightage with reference to the representation of the Indian States, and His Highness quoted the example of the State of Mayarbhanj. It

seems to me we can consider this question of weightage from three aspects. If it is a question of weightage *inter se* as between the States, obviously the Representatives of the States are the best judges of that question; but if it is a question of weightage with reference to British India, and it is intended that though the Federation is to be a Federation of Provinces and of States the weightage is to be calculated with reference to British India as a whole, then two possibilities arise. I am speaking without any knowledge, but it seems to me it is more than possible that in considering the units which will enter into the Federation we may have to consider the possibility of some States coming into the Federation and others keeping out at the present juncture. I hope we shall make provision for other States entering into the Federation later. None will be gladder than those on this side of the table if all the States would come into the Federation, but we have to consider the possibility of some of them at the present stage, for one reason or another, keeping out. The weightage question will have to be considered from one aspect if all the States come in, and from another aspect if only some come in. The question of weightage assumes a very much more important aspect if only some of the States come in than if they all come in.

With reference to the observation of Their Highnesses that they have kept an open mind as regards entering the two Chambers in the Federal Legislature, personally, speaking purely from the constitutional point of view, I think that many of our constitutional problems will be greatly facilitated if Representatives of the States could come into both chambers, and I hope Their Highnesses, purely from the point of view of constitution, may come to the conclusion which we have reached on that matter.

It seems to me, moreover, that if two legislatures are set up and they come into both of the Houses, the weightage may have reference to the one and not to the other. In another Federation I have been studying, that of Canada, there has been weightage granted in the Upper House, the Senate, for Lower Canada, and not in the Lower House. It is possible that the British India point of view and the State point of view may be reconciled if the question of weightage is considered with reference to one assembly and not with reference to both assemblies.

If, as I have suggested, we start with the idea that in the Federation the Provinces come in as such and the States come in as such, no question of a dominant partner arises at all, and that idea may be dispensed with altogether. All the units of the Federation will have the same status and will work on the same status to the extent that an All-India Federation permits them to work.

I do not think I have anything more to say at this stage.

Chairman: Thank you very much; we are very much obliged to you.

Sir C. P. Ramaswami Aiyar: Some of the points of view which I desired to place before this Sub-Committee have already been

anticipated and dealt with by my friend, Mr. Ramaswami Mudaliyar, and I am thus enabled to make my remarks much briefer than they would otherwise have been. The first point I desire to emphasise at this stage is that everyone on this side of the table is anxious that the Indian Princes should come into a real Federation. We realise that with them by our side the whole idea of the fashioning of the new India would be different, and we are willing to go more than half-way to meet the just claims of the Princes in their desire to see that their internal sovereignty is unaffected except to the extent to which such sovereignty is voluntarily surrendered by them for the common benefit and for common purposes to the Federation. I am making this perfectly clear because I do not desire that there sh [illegible] thought as to the at [illegible] to this question of [illegible] that British India, speaking generally, does not want to trespass upon, or to take any part in the internal affairs of the States, or to infringe their sovereignty except to the extent to which the Indian States conjointly and severally surrender their sovereignty for common purpose and for common good to a common machinery

That having been granted, the question of the reality of the Federation will then depend upon the extent to which this conjoint action becomes possible, and the character of the structure which we are going to build will depend on the extent to which the Princes come in. I can conceive of two alternatives—first, the alternative which has been indicated in certain newspapers and by certain publicists, namely, a very attenuated Federation with very small groups of subjects being dealt with by it basing Federation solely upon common Legislative Policy in one or two matters. If that were done the Federation would be a very loose-knit one, and the scope of it would be so limited that its effectiveness as a whole would become very little.

I am therefore making an appeal at this stage to Their Highnesses to see to it that the Federation comprises all the subjects which are really of common concern to the whole of India, so that by coming into the Federation they may exercise that just and legitimate influence upon All-India affairs, which they are entitled to, and British India will welcome this, and the whole of India will stand to gain by this procedure.

To conceive of this Federation as comprising or dealing with only a few States and with very few points would be to handicap the Federation and to obstruct the full progress of the Federation from the point of view both of Indian States and of British India. My first appeal, therefore, is that in the discussions which follow hereafter Their Highnesses will bear in mind that only to the extent to which they widen the scope of the Federal subjects will they be playing that part which they hope to play in the India of the future

I am making these remarks especially on account of one or two observations (which I may have misunderstood) which fell from Sir

Akbar Hydari and His Highness of Bikaner. Sir Akbar's conception of the Federation was somewhat like this: "Let the British Indian portion of this Federation deal with the whole of its legislation, and exclusively look after its own problems. Let it have its own two houses, or one house if it so likes. Let there be a Federal Legislature, ultimate and supreme, dealing only with certain Federal subjects in which the present British Indian Legislatures will practically play a small part and have a kind of watching brief." That was the gist of his remarks as I understood them. So to conceive of the Federation would, I venture to submit, be to handicap or nullify the work of the Federation. My reasons for saying so are these. It is impossible to conceive that in matters like taxation and finance the British Indian portion will not regulate its procedure according to the model of the more advanced States of the world, where the lower House, the democratic assembly, takes cognizance of and is practically the supreme authority in matters of taxation and finance. To keep away from it Federal Finance would be impossible and would be unacceptable. In other words—I am speaking of the present Legislative Assembly only as an illustrative example—assuming that the present Legislative Assembly is told that "matters of federal finance will not be within its cognizance," or that "the ultimate decision with regard to federal finance will be taken away from it," such a proposition will be wholly unacceptable to British India, and will also not be in conformity with what may be called the more modern progressive ideas. It is, therefore, that the appeal was made yesterday to their Highnesses to see to it that if possible they should have a real and effective representation in both the two Houses of the Federation. Sir Akbar Hydari said that the Federation ought not to be conceived of as if the Indian States were coming into a British Indian Legislature. That is not the view at all. Let us erect Federal Legislatures—one on a democratic basis and one as an upper House. By "democratic basis," I mean this—that so far as British India is concerned the representatives to that lower House will be admitted upon a purely democratic basis and, unless and until the Indian States desire otherwise, it will no doubt be a nominated assembly to the extent of the Indian States portion of that democratic House; but nevertheless the impact of this democracy upon the peoples and rulers of the Indian States will be there, and the two houses will both function in matters of supreme importance like federal finance and taxation, the lower House having a decisive or at least a co-equal voice.

I shall conclude this portion of my remarks by saying that a real federation will necessarily involve the participation by the Indian States and British India in the two Houses, or in all the Houses of the legislature, and necessarily also in the Executive.

Now I come to the British Indian portion of the Federation. Arising out of the remarks of Sir Muhammad Shafi, let me make my position clear. A certain amount of confusion of thought has arisen out of the use of the expression "residuary power" or

residuary jurisdiction." Speaking for myself, I do not agree with those who think that any provincial autonomy would be real if the Central Government or the Central authority were entitled at every stage to come in and say, "I overrule you," or, "I do not agree with you," or, "that particular policy must be reversed." That is not my idea of provincial autonomy Residuary power or residuary jurisdiction, as I conceive it, is the exercise of emergency and extraordinary powers in matters where the constitution does not make complete and adequate provision for all contingencies which may arise, and those residuary or emergency powers must be always in the Central authority.

I come now to my last point. I hold very strongly the view that the 150 years of the unifying and the solidifying influence of the British administration with regard to the various provinces of British India *inter se* must be preserved consistently with this ideal of provincial autonomy In all matters of local concern and local administration, the provinces or the units should be the supreme arbiters and the final authorities. But there are matters in which common action and common legislation are desirable and essential In order to focus attention upon these specific matters, let me give some illustrations. I take the view that in civil and criminal law and company and commercial law it would not be wise to forget the need of a co-ordinating authority at the Centre so far as British India is concerned, just as there is at the present moment Sir Muhammad Shafi spoke of the Malabar Law, where not the sister but the sister's son inherits, and he said that the existence of this system and the Punjab customary law made it clear that there should not be too much uniformity. But take any state like England or France There are peculiarities of custom and local variations. Take India, there is the Hindu and Muhammadan Law; there is the Sikh Law; there is the customary law in various parts of the country. Nevertheless there are paramount matters concerned with the enactment and administration of civil and criminal law in regard to which, in so far as uniformity has been attained, that uniformity must be preserved. Let me give a further illustration Difficulties have arisen in other countries on account of a trust or combine being legal in one part of the country and not legal in another part of the country. The company law may be different in one State from the company law in another State and this has led to great complication. Criminal law and procedure should be uniform, and as uniformity has already been attained in the Provinces I do not wish that that uniformity should be done away with. In any event there should be some kind of co-ordinating and unifying authority. I maintain the view adumbrated by the Lord Chancellor that at some time, if not immediately, the Central subjects, if I may so term them, will disappear and they all might become Federal subjects, but I still hold that in any Federation in certain important categories there must be a co-ordinating authority with regard to legislation and even administration so far as it is possible At present that co-ordinating jurisdiction is possible only to a very limited extent between the Indian

States and British India. That is because the Indian States are sovereign States. They are only giving up a portion of their sovereignty to a Federal authority for Federal purposes. The Provinces are not sovereign now, and in the future I do not object to their being or becoming absolutely supreme so far as local matters are concerned. To that extent they may be erected as quasi-sovereign States by virtue of the action of the Federation, but I still say that as between the Provinces in British India there should be maintained a co-ordinating and unifying authority in certain matters of paramount importance. For that reason, therefore, I agree with what fell from a previous speaker, that for the present we may have to visualise two types of Federation, one Federation concerning itself with the bringing together of the Indian States and the rest of India (group it by Provinces if you like) as to matters in which common action is possible. That ought not to mean that there should not be another Federation as between the provinces, each wholly and fully autonomous as far as possible, but with this underlying idea of securing a large measure of unity and uniformity, and of not jettisoning the unity that has already been achieved.

Mr. Jinnah: As far as I am concerned, I have listened to the various speeches, and I cannot find so far that any principle has emerged. I am very anxious that at any rate we should have some definite principle in front of us. So far as British India is concerned, any alteration or modification in the constitution of the government of British India can be enacted by Act of Parliament. So far as the Indian States are concerned, they can only come into Federation by means of an agreement. That may be the procedure, but so far as British India is concerned we are still not quite clear as to what kind of Federation there will be in British India so far as the Provinces are concerned. I do not want to debate in this Committee, but one view is that the Provinces should be made sovereign States in British India. If they are made sovereign States they come into the Federation in the same way as the Indian States. Then there will be only one Federation, and not a Federation within a Federation or two Federations. With regard to what fell from Sir C. P. Ramaswami Aiyar, I do not wish to answer his arguments at present, because I do not think any useful purpose will be served. I think we first of all, therefore, ought to get to this point: whatever may be our difficulties so far as the Federation of British India or the Provinces is concerned, let us put that on one side for the moment. The question of whether the Federation of the Provinces of British India are to be as sovereign States or, to use the technical expression, "with residuary power in the Provinces," or whether there should be a Federation with a Centralised Government, would I think better be left on one side for the moment. Let us first of all get to this point: What are the subjects on which the Indian States are prepared to come into this Federation? If we can get to know that first, then we know where we are. Is the Federation going to be a real one, to use an expression which has already been used, or, as Mr. Sastri put

it in his own beautiful language, shall we find when we come to deal with these subjects with regard to which the Indian Princes desire to come into Federation, that the Federation has been watered down or weakened to such an extent that it is no Federation at all? Therefore, I would rather not complicate the various questions which we may have to consider with regard to the Provinces in British India. Let us at once get on with those subjects which the Indian States are prepared to consider as matters of Federal concern. If we get to that, then a question will arise—and a very important question which has been emphasised very clearly by my friend Sir Muhammad Shafi and also by His Highness of Bhopal.

Then there will be the issue with which we shall be face to face, and that issue will be this: To what extent you can level up the Provinces, or to what extent you cannot level up the Provinces Therefore, Sir, I do not wish to say anything more at present on this, and I beg the Committee to get on with the work instead of debating these various interesting questions Let us get on with this: to what extent the Indian States are prepared to agree to matters of common concern, and if we get that clearly perhaps our position will be far more clear than it is at present

I would like to say one more word, Sir, and that is this The Indian States must realise this, that so far as British India is concerned we have had a definite ideal before us, and we have been determined that so far as British India is concerned it must go ahead with responsible Government in British India, and this demand of ours for which we have been fighting has created this situation, that the Indian States' interests must be considered. I wish to make quite clear to my friends there, the Princes and the Indian States' delegates, that we are ready and we are willing to meet you in every way we can, because with you we shall be stronger and better off than without you. Therefore we want to meet you in every way we can, but let us see whether you mean real federation, and, if I may use your own expression, to what extent are you prepared to sacrifice for the good of all India In that spirit I would appeal to you to discuss with us what are those subjects which you are prepared to make over to the All-India Federation.

Chairman: Thank you, Mr. Jinnah. I now call upon Sardar Ujjal Singh.

Sardar Ujjal Singh: In deference to Mr. Jinnah's opinion, I do not want to dilate upon any general remarks, but I would only put my crude ideas on the two or three points that were raised in crude language.

As a matter of fact, the problem of federation is very peculiar in this country, because on the one hand we have independent States which have to part with a portion of their sovereignty and on the other hand we have the Provinces which have so far been under a unitary system. Federation has always been, in history,

a process of levelling down a portion of the sovereignty of the independent States; it has never been a process of levelling up; and to the extent to which spheres of common activities are concerned the sovereign States have had to part with their sovereignty.

So far as the Provinces are concerned, we shall have to federate them in a particular way. It would be rather dangerous to put them in an independent position like the States. The States have to come into the Federation on an agreement, and it will depend upon the will of the various States to what extent they are prepared to part with their sovereignty: but we cannot reverse the process in the case of the Provinces so as to make them sovereign independent States. That would be a very dangerous process because a federation is created for the purpose of arriving at strength and unity of policy in the centre, and if we were aiming at raising the Provinces to the position of sovereign States we should be defeating the object of creating the Central Government as a strong Government and a Government with one policy.

I can well realise, Sir, that in the case of the States there will be certain subjects which would be Federal subjects, and would be determined by the States within the Federation, and in the case of the Provinces there will be certain subjects which will be Central subjects which for the present may not be Federal subjects; but it does not follow that all the subjects which are at present Central subjects, which are not Federal subjects, may be transferred to the Provinces, because all the existing Central subjects are more or less matters of common concern to the whole of British India, and more or less they are subjects of common concern to the whole of India; and for the better government of India I should have called them Federal subjects, but it all depends how far the States would like to federate on those subjects.

The time may come when all the Central subjects may become Federal subjects, but we cannot yet visualise that time. But it would be dangerous to transfer all those subjects of common concern to the Provinces. I can well realise that the Provinces should be given an autonomy in the local sphere, in concerns which are of only local importance, and to that extent their powers should be unlimited; but I cannot conceive that matters which are of common concern, which require one uniform policy, should be transferred to the Provinces.

With regard to some remarks which fell yesterday from His Highness of Bikaner, that it might be possible to give Federal powers to one legislature—a Federal legislature—I may say that it would be impossible to conceive that a lower House, the House of Representatives, should have nothing to do with Federal subjects.

H.H. The Maharaja of Bikaner: I do not think I spoke on that subject. I do not think I touched on that subject. There may have been somebody else who did.

Chairman: There was another speaker; that is quite right.

Sardar Ujjal Singh. Probably I am mistaken. It is impossible to conceive that the House of Representatives, the lower House, should have nothing to do with Federal subjects. As a matter of fact, even the limited number of Federal subjects are of very great importance—for example, currency and coinage, or the tariff and customs. They are subjects on which the representatives of British India, the democratic representatives, would like to have a great voice, and effective voice; so the best course would be to have one Federal legislature consisting of two Houses, in which the States would be represented both in the lower and in the upper House.

Then would come the question of representation and of weightage. I do not regard the weightage to the States—as has already been pointed out by Sir Ramaswami Aiyar—as that in Canada and in other countries too, where in one House certain elements have been given weightage, yet in the Lower House, the House of Representatives, they are represented on a population basis But there is one question which should not be lost sight of from the point of view of British India. I do not say that I have got any great fear or feeling on that ground, but there is a feeling present in the mind of British India that if, for the present, in the lower House, or even in the upper House, the Provinces, should their send their representatives or the whole of India by their general constituencies should send their representatives on a wide franchise, they would be representatives of the people, whereas the States would be sending their nominees to the very same legislatures, and they would be the nominees of the rulers of the various States. The feeling is that if a large weightage were given to the States in both the Houses it would be a sort of impediment in the way of the British Indian representatives of the people in achieving their object in the more progressive manner in which they would like to achieve it I have only put forward that idea—that there is a feeling in the minds of some of the British Indian representatives, and from that point of view the States should not press for any great weightage in the House of representatives. Another point is this, that the States would be the gainer to the extent that in some of the problems in regard to which, rightly or wrongly, they have not been having any voice, they would be having a great influence in the future Federal legislature. For example, in Customs they have not been having any voice so far, but in the Federal Legislature they would be exercising a great influence in determining the questions of tariffs and customs: so that that would be a gain to the States as well

Therefore, in considering all these questions I would beg the States not to harp too much upon their sovereignty. Of course, the internal sovereignty would be guaranteed, but they do understand, I believe, and they must understand that when they come into federation they do part with a portion of their sovereignty to the extent to which it affects Federal subjects.

Chairman. Thank you, Sir I am very much obliged to you

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man: Thank you, Sir. I am very much obliged to

Mr. Jayakar: I do not want to take a long time, because I am anxious that we should get on with the most important question—namely, on what subjects the Indian Princes are prepared to federate. That, I think, is the most important question. I shall not, therefore, waste the time of this assembly in talking about points which are more or less remotely connected with the question we have in front of us.

A great deal of what I wanted to say has been anticipated by the speech of my friend the Diwan Mudaliyar and Sir C. P. Ramaswami Aiyar. Nor do I propose to speak of the two legislative Houses or with the suggestion that the Princes should come into one or both of them. I shall only say one thing, which I would like Their Highnesses to remember—that as at present constituted the lower House—meaning the Indian Legislative Assembly—is seized of all the questions which will become Federal. At present under our constitution it is a popular House, and it is extremely jealous of its rights and privileges. The component elements of the Indian Legislative Assembly are democratic in the main, and all these subjects, which in course of time, as the result of our deliberations here, will become Federal, are at present in the purview and under the dominion of this popular House. Any scheme of federation, therefore, which the Princes are willing to join, which has the effect of removing from the purview of this House all these important questions, if I may say so with great modesty, has no chance of being accepted in British India. That must be taken, if I may say so without undue emphasis, as the cardinal fact on which we have to proceed. If we are to make our constitution acceptable to British India it must be a constitution which does not deprive the lower central House of those subjects of all-India importance of which at present it is possessed. Therefore the Princes will have to consider—and I am one of those who would give them the greatest freedom and liberty on that point—on what subjects they will federate; and accordingly the next important question is, in which House they will have their representatives. If I may venture upon a humble suggestion, Sir,—I am only making one individual suggestion as a humble member of this gathering—perhaps it would be better—I am merely putting it for the consideration of the Princes, without any emphasis on it—that if you take the fact that all these important questions cannot be removed, in any scheme which is to be made acceptable to British India, from the decision of the lower House, then perhaps it may be desirable that the Indian Princes' representatives should come into the lower House. I do not care how they are elected; they may be nominated, they may be elected, or they may be chosen in any other way. We are not concerned with that, because that is an internal question for the Princes to decide; but what I am concerned with is that perhaps it would be better that their representatives should come into the lower House also. I am merely making a humble suggestion for the Princes to consider. I am only concerned with one important fact, on which I lay the greatest emphasis—that if you want to make your scheme acceptable to British India you cannot remove these

important questions from the consideration of the lower House Whether you will give the upper House, for the sake of the Princes, a concurrent voice in these matters, or a supervising voice, that is a matter of detail with which I am not concerned. We will wait and see what the Princes themselves think. But I must lay emphasis on the fact that you cannot wholly remove these important questions from the lower House

Sir Akbar Hydari For consideration or decision by the lower House?

Mr. Jayakar: I do not say by the lower House alone; it may be a joint decision of the two That is a matter of detail on which I am quite open to argument; but you cannot take them from the consideration of the lower House.

Then, Sir, I am very anxious, as my friend Mr Jinnah is, that we should get on with the business, and I am therefore anxious that we should dissociate these two important questions—namely, the *Princes' Federation and the Federation of the Provinces*—with the Central Government, otherwise we shall get into a confusion. I therefore reciprocate the wish of Mr. Jinnah that for the present we should apply our minds to the Princes' Federation, leaving open the question as to how British India will federate within itself I *somewhat differ from the views expressed by previous* [illegible] somewhat strongly that British India [illegible] the Indian States, either together or [illegible] is a matter on which it is possible [illegible] the kind of Federation through the *Provinces which will constitute* British India *into one unit.* That is a matter on which I do not wish to be dogmatic, but I wish to sound one note of caution—that after we ascertain from the Indian Princes how they will federate (and I am quite prepared to allow them to retain many of the sovereign rights), after the Princes *come in in a manner in which they retain many of their sovereign* rights, about which I will not be dogmatic, I would sound a note of caution by saying that after this federation is achieved on paper it must not be made the basis of asking for the Provinces in future the same kind of sovereign rights.

The analogy between the Indian Princes and the Sovereigns is a dangerous analogy, and I wish even at this stage to sound a cautionary note. If the Indian Princes come into the Federation [illegible] quasi-sovereign rights, that must not be [illegible] hts for the Provinces. [illegible] *are different from the* Indian States. As a previous speaker very wisely remarked, at the present moment the Indian States are sovereign States; their [illegible] they owe a certain dynastic [illegible] id to be anything [illegible]. They *come into* [illegible] that on which the [illegible] t are not sovereign, [illegible] Federation; and any

attempt to put the Provinces and the Indian States on the same footing, or any argument based on the analogy of the Indian States for sovereignty for the Provinces, would be very unwise.

We must leave to the Indian Princes perfect freedom, because they are the best judges of what they are prepared to do. I am one of those who hold the view that it should be left entirely to the Princes, but I should like to make one appeal to them, and I hope it will not be misunderstood. If they are really anxious to help British India, I should like to point out to them that the larger the Federation the better will be the help and the more substantial will be the help. As to where they can come in, they are the best judges; I have never been in an Indian State myself, though I have many friends among the Indian Princes. With that appeal I leave it to them to decide on what Federal subjects they think they can come in and on what they cannot.

H.H. The Nawab of Bhopal: I want to make just a few remarks in order to clear the ground: I wish to deal with certain of the observations to which we have listened, and I shall deal with them in the order in which the members spoke.

With regard to what Sir Muhammad Shafi said, he referred to the Montagu-Chelmsford scheme, and I should like to point out that we had no say in the formation of the policy which was laid down by Mr. Montagu and the Government of India. That is a point which I wish to bring out in connection with the reference which Sir Muhammad Shafi made. The picture may have been painted, but it was painted without a sitting being given by the Princes, and I think it was more or less an imaginary one. In the circumstances it may be a very good picture, but as it turned out so far as the Princes are concerned it was entirely lifeless.

The same thing has happened with regard to the Simon Report, in which we are not concerned at all. It only happened at a later stage that Sir John Simon thought we might come in, and we have come in and we are sitting here. Of course, I entirely agree with Sir Muhammad Shafi that to begin with the fewer the subjects of common concern the better it will be, speaking for myself.

My friend Mr. Ramaswami Mudaliyar referred to loyalty to the Crown. It is hardly necessary for me to refer to our loyalty to the Crown, but there is one point I want to make clear. We have not claimed and do not intend to claim anything as the price of our loyalty. That is an entirely different matter. Our claim for weightage which His Highness of Bikaner made yesterday was based entirely on other grounds, such, for instance, as our historic importance, our past connections with the Mogul Empire and our present connections with the Crown—not the question of loyalty, but the other questions—and the question of our independent status in the political life of India, as well as many other matters which ought to be taken into consideration.

Mr. Mudaliyar referred to certain difficulties with regard to uniformity of laws, with which we are not directly concerned and

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which are questions for British India, so I shall not refer to that. Of course, we have said over and over again that we should not be levelled down; if there is to be any levelling we should like to be levelled up rather than down

As regards weightage, perhaps there was a little misunderstanding; the position may need to be cleared up. I entirely agree with my friend that it would be all the more necessary if only a few of the States joined to begin with that there should be some weightage, but the question of weightage is raised by us in any case, for the reasons I have pointed out with regard to political status and so on.

I welcome, of course, Sir C P. Ramaswami Aiyar's statement that he is ready to go more than half-way I think we are also working in the same spirit. We are all willing as far as possible to federate on matters which are of All-India concern, as he pointed out: but there is the question of revenue, of financial federation, to which I should like to refer. When the question of Central finance is under consideration it must be remembered that we require certain revenues for carrying on our administration, and when we are discussing the question that point must be kept in mind, as well as the fact that, according to our way of looking at it, nearly 33 per cent. of the revenues which we ought to get do not come to us We have suffered in many ways by losing that income One of the reasons why in certain areas the population is going down and industry is not thriving lies in the fact that nearly 33 per cent. of the revenues which ought to be ours go into the exchequer of British India and are used there. As I say, when financial matters are discussed that point must be borne in mind.

I am largely in agreement with what Mr Jinnah has said, but, as we have emphasised over and over again, we must know with whom we are federating. In that respect I want to make one point clear, namely that we will only federate with a federated British India and not with British India as one solid unit.

Mr. Sastri: May I ask whether that is the opinion of the Princes as an Order, or your own opinion?

H.H. The Nawab of Bhopal: It is my opinion, but I think my Order is of opinion that the British India with which we will federate must be a federated British India.

H.H. The Maharaja of Bikaner: We prefer federating with a federated India, and their own internal arrangements will be discussed here.

H.H. The Maharaja of Bhopal: We want to federate with a federated British India.

H.H. The Maharaja of Bikaner: Not with India as it is at present.

Mr. Jinnah: May I ask a question? Does Your Highness say that you will first take up the question of how British India should be Federated?

H.H. The Nawab of Bhopal: No: I merely want to point out that when we federate with British India it is presumed that it will be a federated British India, and not India as it is at present as a solid unit with a unitary Government.

Mr. Jinnah: I took it for granted, Sir, that India would not be under a unitary Government.

H.H. The Nawab of Bhopal: I only wanted to make my position clear.

With regard to my friend Sardar Ujjal Singh, there will be some difference of opinion with him because he has applied the guillotine in the beginning! He pointed out the States might be levelled down, a position against which all of us have spoken and taken our stand. We want to point out that it must be a process of levelling up and not of levelling down as far as we are concerned. Then he referred to a question about our not harping on our sovereignty. There is no question of our harping on our sovereignty at all; we are asking for what we consider to be our legitimate rights in any constitution. India as a whole and British India as a self-governing unit to-day has no real voice so far in such matters; they are asking for it, and we are also asking for it; so it is not a question of sovereignty but a question of how we may be able to govern ourselves consistently with our identity being preserved. The question should be looked at, therefore, from that point of view and not from the point of view of the States harping on their sovereignty.

With regard to what Mr. Jayakar said, we quite see the force of the argument that the Lower House should have its voice.

Chairman: We shall come to that when we discuss that point.

H.H. The Nawab of Bhopal: As the discussions go on, when we come to that point I think we shall try to solve that question in a way which will suit all sides.

I should like to make the same appeal to British India as Mr. Jayakar has made to us, and ask the representatives of British India to consider us as their friends who are sitting round the table to evolve a constitution which will be a strong constitution, useful for all and for the benefit of India as a whole. We hope we shall arrive at successful results in that respect.

H.H. The Maharaja of Bikaner: I want us to get on as quickly as possible, and I do not propose to go over all the ground covered by the various speakers or over some of the points touched on by His Highness of Bhopal, though I fear some little overlapping may be inevitable. I do not consider it proper for me to touch on the purely British India aspects of the question, since those are matters which can naturally best be dealt with by our friends from British India, who are the persons chiefly concerned. All that we have to look at in any matter referring to the Central Government or to the Provincial Governments, so far as anything which does not come strictly under Federation is concerned, is whether it affects the States in any way, as might be the case with

ard to certain Provinces on whose borders our States lie. On h matters we might have to say something, but the rest is turally for British India to deal with.

In the first place, it is due to our British India friends that should express our gratitude for and gratification at the courtesy, ympathy and understanding they have displayed. I do not think much difference of opinion has really been expressed. What misgivings there may be are probably due to either side not fully understanding exactly what we have in view, and that will probably be elicited in the course of our discussions.

However, it is necessary to emphasise, with reference to certain observations which have been made, that the States are there; we are not harping on our sovereignty, but we have that sovereignty British India, if I may say so with all respect, has everything to gain, but the States are losing their sovereignty and are willingly surrendering it in certain respects. They are taking risks which may be grave or which may be small, but we, as the custodians of the rights of our States and our subjects, are bound to see that our legitimate interests are reasonably safeguarded, and we have a desire which is natural to all human beings, the desire to live and to exist We have to see to that

We do not want to make this a sham Federation, we shall try to make it as real as possible But we have to ask for certain safeguards, and we do want to go cautiously We want to have as limited a list of common subjects as is possible, but we do not want to limit it to such an extent as to leave out any subjects which it is essential the Federation should deal with We are coming into this Federation as equal partners, and we do not want to limit it to the extent of making its working impossible

I do not think we need be frightened by the analogy of Prussia or by talk of domination, because, as we have said, we want to come in as equal partners. I think there is a good deal of mis understanding about the question of weightage, which H Highness of Bhopal has mentioned. I should like to read out you what I said on that subject yesterday. What I said yesterd was this:—

"There is only one other point which I specially wan mention arising out of what you said in your prelimi observations It is on the matter of the representation o States. We wish, when claiming an effective voice and r sentation in the Federal institutions, to emphasise importance and need—in justice to the States and thei jects—that the representation of the States should based merely on area or population alone, but that must also be had to their internal sovereignty, their r with the Crown, their political importance as one of separate great entities of India and also, to quote Simon Report, 'Their existence and influence ...n's obligation in regard to them'."

And now, Sir, weightage is not claimed in regard to the Lower House or in regard to the Upper House, but it is claimed on these grounds; because the States are in a certain minority. I believe if Burma goes out the area of the States will be something like 42 per cent. What we wanted to say about weightage was that in view of all these points, and of certain other obvious considerations, it cannot merely be either on the population of British India on the one hand and the States on the other, or on their respective areas.

With reference to the point whether all the States will come in or not, we realise that if a majority of the States do not come in the matter will be different, but I think a great deal will depend on the kind of Federation that we can evolve, and the agreement we come to. If, as we hope,—and we are going to contribute towards it—it is a settlement fair to British India and to the States, and it is acceptable, as we will try to make it, then I have little doubt personally that a great majority of the States will be willing to enter into the Federation. If it is impracticable, well then, naturally, you cannot expect the States to come in, but I hope we are all going to contribute towards making it a good Federation, and therefore I hope that the majority of the States will come in.

I do not want to touch too much on the subject of the Lower House, because that is a matter which we shall have to discuss as things go on. It has already been said on behalf of all of us that we have come here with an open mind, and I do not want to say anything finally irrevocable; but personally I must confess that we have been thinking of this from 1917 onwards, and there is a natural reluctance on the part of the States to come into a Lower House, for reasons which are obvious. It would be very difficult for the States to keep out of general discussions many of which would be on the purely domestic affairs of British India, and we fear there would be a corresponding interference in the domestic affairs of the States. We need not argue that at the present moment. Personally I do not think it will be in the interests of British India or of the States for the States to have a voice in their domestic affairs. My friend Mr. Jayakar talked of the risk of removing important questions from the Lower House. We realise that, and we will have to discuss it. There are essential subjects which the Lower House may have to deal with, like Finance; and here I want to say that we have not yet touched on questions of Finance and Fiscal matters, in which the States are deeply interested, because those are subjects which will arise later.

I do wish to say one thing, and that is that I think there is a misunderstanding on the part of one of the speakers as regards the representation or the representatives of the States. We are not coming in at the bidding of anyone, even the illustrious representative of the Crown. We have treaties of alliance and friendship with the Crown, and our loyalty has been proven in many

periods of stress and storm, but we are the custodians of the rights of our people, and any representatives going from our States are not going to speak or do anything at the bidding of anybody, except to represent and try to safeguard the interests of the States and their peoples Their representatives will be the chosen representatives not of the Princes but of the Governments of the States. I hope that bogey will be removed from the minds of any section in British India that may entertain it, and I was glad to hear the disclaimer of so many of my friends on that side.

With regard to the questions of deadlocks, majorities and so on, I suppose all these questions will come up later.

Chairman I want, if you will allow me, to put before you certain questions which I will ask you to bear in mind before we come to the Subjects. I want if possible, subject to your kind consideration, when we have done the Subjects to discuss them in the following order:—

(1) What are to be the component elements of the Federation? You know the different views—a Federated British India and the Princes, or the Provinces and the Princes; whether the Provinces would or would not be sovereign States. What are to be the component elements of the Federation—States and Provinces, or States and British India

(2) Will there be two Chambers or one Chamber, and as an ancillary to that question, Will the Princes sit in one or both?

H.H. The Maharaja of Bikaner. Our representatives.

Chairman . I have put in my notes, Will the Princes or their Representatives sit in both or in one.

(3) What is to happen as to the classes of Central Authority? Those are particularly chosen words Is there to be a Federal Authority which deals with all subjects, or is there to be in addition to that a Central Authority which deals with British India subjects only; and depending to some extent upon that.

(4) What are to be the Federal Subjects and what are to be the Central Subjects? You will see that most of these questions suggest two alternatives. There are two different components of the Federation, the two Chambers, the two classes of Authority, the two classes of Subjects.

(5) Are you to have a few Subjects at first with power to add from time to time, or is it better to have as many Subjects as possible now?

(6) Powers of Executive and Legislature. These are, most of them, contained in Mr. Sapru's speech, and they are this class of question: what are the provisions to be for a deadlock between the two houses, if it comes about? He instanced the Czecho-Slovakian and the South African models. What is to be the relation of the Legislature to the Executive? Is there to be a specified number of votes for a Vote of Non-Confidence? Is there to be an Executive responsible to both Houses, and so on. These

details of procedure we shall get down to when we come to that part of our discussion.

(7) What is to happen to the present Houses and their jurisdiction? We know what Mr. Jayakar has said with regard to that, and Their Highnesses have put very clearly their views with regard to this question.

(8) The sovereignty of the Princes. They drew attention, first, to the paramountcy question; secondly, that their subjects are not British subjects, and thirdly, that they must be co-equal partners; and there was a more detailed point of Sir Akbar's as to a safeguard against snap votes. What I want to say finally is this. We are very anxious to help you and to restore peace and prosperity to India, but it chiefly depends upon you and to the greatest measure of agreement you can get in this Sub-Committee. Forgive me saying quite bluntly one thing. We have a great chance, but we shall only be able to realise it provided everybody realises that you cannot get your own way in everything. May I make a quotation from a very old book, which contains the wisdom of the East although it happens to be our Great Book here in the West which we follow in our religion. The quotation is this: "How can two walk together unless they be agreed?" If you will come into the greatest measure of agreement, we shall realise our ambitions, but again let me beg you to remember that it mainly depends upon you. We are anxious to help. We will do everything we can, and if all of us throw our brains into the common pool, and if we all of us remember the views of others as well as our own, we shall come, I believe, to a satisfactory conclusion on this difficult subject.

It seems to be your general idea, and it certainly is in agreement with mine, that we should come to these Subjects at once. Which are to be the Federal or the Central Subjects? We need not divide them into these two categories at present. Let us see if we can come to a conclusion with regard to them, and I think I am not making a rash prophecy when I say that if you come to an agreement upon that you will have a very sure and certain guide as to the answer to most of the questions which fall to your determination.

NOTE.—A discussion followed in which the present list of Central Subjects (Devolution Rules Schedule I) was considered in detail. The results of this discussion are embodied in the Appendix of the Sub-Committee's Report. In view of the nature of the discussion the following record reproduces only those portions of the verbatim reports which touch upon questions of principle.

* * * * * * *

Posts, Telegraphs, etc.

H.H. The Maharaja of Bikaner: It is policy in regard to it that we want to talk about, because some States have their own regulations. Gwalior and Hyderabad have their own post offices, and we have had a very long revision of policy in our Princes'

Chamber Standing Committee with the Government of India about telegraphs and posts. So it is policy in regard to posts and telegraphs. We thought that internal telephones, unless they were trunk lines, should be matters for the States.

Col. Haksar: I take it that the policy includes legislation.

H H. The Maharaja of Bikaner. Policy and legislation.

Col. Haksar: Posts and telegraphs, including wireless installations.

Chairman: Then are we to put "Policy as regards posts, telegraphs, trunk telephones and wireless installations"?

H.H. The Maharaja of Bikaner. Yes, trunk telephones, because some States have purely internal telephones.

Mr. Sastri. If we only say policy and legislation regarding these subjects, would it be open to the Federal authority to establish post offices within the territory of Native States?

H H. The Maharaja of Bikaner: I think you have got them already in most places. There is a regular procedure about them. They write and ask us

Sir Akbar Hydari. That would be determined by the policy that we implement.

Mr. Sastri I am afraid the words used will be too wide

Col. Haksar I will tell you the implication of those words, policy and legislation. So far as policy is concerned it would not be a question of opening a post office here or a post office there, it would be a question of whether, for example, you would have competitive carrier lines, whether you would use the railways as you are using them to-day without making any payment to the railways for the purposes of carrying your posts, whether you would permit, by contracts, private motor car services to compete with the railways, which so far carry the mails. Those would be questions of policy. Then there is the question of postage itself—whether it would be a one anna postage, or whether it would be a two anna postage. At present the postage is a one anna postage—call it a penny postage. If, as was suggested the other day, the scale of postage should be raised by one anna to two annas, you would have to legislate to do it, because you have got the Post Office Act to-day, which prescribes the rate.

Mr. Sastri: Now I understand the meaning of the words policy and legislation.

Col. Haksar · But the question you raised was, what is the present position? The present position is that except in cases of conventional States you do, at the request of the States, open post offices where they think a post office is wanted, or if independently you think or have found that there is sufficient postal traffic in a particular area, you, with the consent of the State, proceed to open a post office So the question of opening post offices neither arises, nor would it present any difficulty. Have you any other doubt about it?

Mr. Sastri: I am not yet clear in my mind. Supposing there is a question of an expansion or a contraction of postal facilities, or the opening of fresh telegraph offices. Would that be covered by this expression that we use, or would it not?

H.H. The Maharaja of Bikaner: Policy is now a matter of arrangement, and we may revise our policy.

Col. Haksar: Perhaps it is simpler to put it to Mr. Sastri in this way. You have a Telegraph Act to-day. Take telegraphs apart from posts. You have a Telegraph Act which enables you to-day to open telegraph offices where you like except in States. If you talk about post offices, the States which are called the conventional States have their own postal departments.

Mr. Sastri: But why should there be any difference if the Post Office comes under Federated subjects?

H.H. The Maharaja of Bikaner: Because some States may want to keep their postal arrangements as they are now.

Col. Haksar: It is not safe to assume just now that the States would be ready to give up their present privileges. Mind you, it is a question of money for the States that have conventions and under the conventions maintain their own postal departments. They do derive a revenue by the use of postage stamps.

Mr. Sastri: Those conventions relate to the present system. There is no occasion for a convention of that character, when the subject is a federal subject, and you must bear that in mind.

H.H. The Maharaja of Bikaner: That infringes on the fiscal point that we take up, because we might lose a substantial revenue.

Col. Haksar: What I am saying supports what you say. It follows from making posts and telegraphs a Federal subject that most of the post offices in the country are federal post offices. All the revenues derived from post offices are federal revenues, assuming that you assign the post office revenue to federal finance.

H.H. The Maharaja of Bikaner: We are fighting that at present in the States. They have post and telegraph offices in the States, and all the revenue goes to the British Indian fund.

Sir Akbar Hydari: I think Mr. Sastri has raised a very important question, and I hope that throughout our discussions, when we come to discuss these subjects, we shall be glad to know what they understand to be the content of that subject, and whether in their opinion we attenuate it to the extent that it is not worth having, because then we should reconsider our position. With regard to post offices, so far as I understand one question is whether the Indian States which have their own post offices and their own postage stamps will be required to give them up if this is made a Federal subject. That is No. 1. The second is whether the post offices that they have got, which are now administered by their own Government, will continue to be so administered, or whether they will be asked to give up that administration. That is No. 2. The third question which Mr.

Sastri has raised in this: just at present, British post offices and Indian State offices exist side by side in Indian State territory; now which will be the authority which will decide whether a new post office should be opened in an Indian State or *vice versâ* in British territory—whether that will be determined by the Federal body, or whether it will be in accordance with a series of regulations which may be decided upon by the Federal body.

Chairman. Yes I am very much obliged to Sir Akbar. He has put it very clearly.

(The sub-Committee adjourned at 1-15 p.m.)

PROCEEDINGS OF THE THIRD MEETING OF SUB-COMMITTEE NO. I (FEDERAL STRUCTURE) HELD ON WEDNESDAY, 3RD DECEMBER, 1930, AT 11 A.M. AND 2-30 P.M.

Chairman. The Post Office is a very important question, because it raises at once the whole subject of a Federal system Therefore, I think we must at once come to grips with what is meant by a Federal system, and what exactly people are prepared to do with regard to coming into a Federal system. If you will forgive me reading an extract, I think it will be extremely useful to you. I have been looking up the subject in the Encyclopædia Britannica, the eleventh edition. Some of you may wish to look at it. You can get it at any of the Libraries I am not referring to the latest edition, because I think the matter is better put in the eleventh edition the last edition but one. There is a very good article on Federal Government in that edition. It sets out in the course of that article a number of general matters, and then it goes on to discuss quite briefly the nature of the Federal system of Switzerland and the other Federal systems of the United States of America, Canada and Australia You will find it very useful if I may venture to suggest it to you, to look at that article. You know perfectly well that as far as I am concerned I agree with you in wanting to give the fullest possible scope to the aspirations of India, but we must now come down to a concrete thing. It is no longer any use talking at large. May I read to you exactly what is said as to the meaning of a Federal Government; I think you will find it very useful :—

" Federal Government. A form of Government of which the essential principle is that there is a union of two or more States under one central body for certain permanent common objects. In the most perfect form of Federation the States agree " (and I want to call particular attention to this) " to delegate to a supreme Federal Government certain powers or functions inherent in themselves in their sovereign or separate capacity, and the Federal Government in turn in the exercise of those specific powers acts directly not only on the communities making up the Federation but on each individual citizen." Please follow the-

next sentence which is all-important. I am sure you will forgive me reading this because it goes to the heart of the matter.

"So far as concerns the residue of powers unallotted to the central or federal authority, the separate States retain unimpaired their individual sovereignty, and the citizens of a Federation consequently owe a double allegiance—one to the State and one to the Federal Government."

I want to stop there a moment. Of course that only means to the Federal Government in respect of those matters which are federalised. I very much hope that in the categories which we are drawing up it will be found possible to carry out that, and that in certain matters everybody will owe an allegiance to the Federal Government. It may be necessary to make certain safeguards with regard to that allegiance; we can discuss that later on, but I want at once to raise the question by putting a concrete example; in fact I am going to put two concrete examples, but I am going to put this one first, and I will ask Colonel Haksar to deal with it. Assume for the sake of argument that the Postmaster at Hyderabad is guilty of defalcation—that he has taken the money out of the till; who is going to prosecute, and who is going to dismiss? There is a concrete question, and we must come down to tintacks. Here is the Postmaster of Hyderabad. By the hypothesis I am putting to you, he is guilty of a crime. He is also guilty of a crime against the Post Office. What is to happen? I am going to put it quite bluntly to you. In a complete Federation—in what they call here "the perfect federation"—I assume the Central Authority are the people who will prosecute; I assume they are the people who will dismiss. But I do not know yet. Please do not understand that I am in any way cross-examining you. We are getting down to bedrock now. Evidently that is the ideal, but it may be—I do not know, Your Highnesses—that you think you will not go as far as that, or that you cannot go as far as that or that some safeguards must be put in. I would very much like you kindly to help me by Colonel Haksar starting. What do you think on a question like that?

Colonel Haksar: What we are doing at present, Sir, is to separate what the States agree to be Federal subjects in the future from subjects which are to-day Central subjects in India. That is what we are doing.

Mr. Sastri: No, I do not understand it in that way.

Colonel Haksar: We have the list in the Devolution Rules of subjects which are treated as Central subjects. That is the list which Your Lordship has circulated. That is the list which we are examining in order to determine which of those subjects might in future be treated as Federal subjects, and which cannot, in the present circumstances of India, be so treated. Is that a correct statement of fact, Sir?

Chairman. Yes, it is a perfectly correct statement of fact, but at the present moment we are on one of those subjects, namely, the Post Office.

Colonel Haksar At this stage I would like to make one thing perfectly clear. You have anticipated me in it, Sir. You remember that in your remarks the other day you pointed out that the States can enter into a Federal Union either for the purposes merely of legislation or for purposes of legislation and administration. What I venture to submit at the present stage is that when you have framed, with the agreement of the States, your list of Federal subjects, you will realise the necessity of sub-dividing those subjects into subjects which might be Federally administered and into subjects in regard to which only Federal legislation can take place, the subjects themselves continuing to be administered by the Federated Union. We have to sub-divide the list into two heads—(1) subjects which can be, with the consent of the States federally administered I will take one example Yesterday we considered quarantine. I do not add the qualifying word "international" quarantine. It is to be conceived that port quarantine may be federally administered I am committing nobody. I am merely thinking aloud and examining the position. At the same time take a subject like railways. In the present conditions in India I think the sooner it is realised the better that, taking the railways in India as they are, and further taking into consideration the fact that the position of the States in regard to their own lines is the position of proprietors . . .

H.H. The Maharaja of Bikaner: And local governments.

Colonel Haksar: Well, local governments are not owners of any railways. I am speaking from the point of view of proprietorship. They correspond to the position of railways owned by companies who manage them and who take the profits. It is possible that while you may legislate for those, and the States may agree, it will not be possible to have your railways federally administered.

We were discussing the Post Office yesterday, and the suggestion that it might be federalised appeared to receive assent; but does that mean that once the Post Office becomes a federal subject, the Federal Government would be at liberty to open Post Offices wherever it liked? At this stage I would desire to point out that you would find it far more convenient for the progress of your business to proceed upon certain broad assumptions, bearing in mind all the time that when you have laid down broad lines it would still be necessary to go into certain details which must form the subject of negotiation.

I come now to the question of post offices, and I will illustrate my point by citing other instances—instances which arise under the existing Indian polity.

Chairman. We only want to deal with the Post Office at present.

Colonel Haksar: The position as regards the Post Office is that, whereas practically in the whole of India there is one system of Post Offices administered by one authority, namely, the Central Authority, and that that system is the British system of post offices, side by side with these post offices there exist within their own territories post offices of certain what are called, Convention States. They are very few, but there they are. They have their own postal department and postage stamps—may be only surcharged, may be supplied by the same manufacturers as supply stamps to British India, but they are made available to the States at cost price, so that the difference between the cost price and the actual price of the postage goes to the States concerned.

What I desire to say at this stage is merely this—that you may safely, for our purposes, treat post offices as a Federal subject, and later when the time comes consider how the Convention States' post offices can be amalgamated with the rest of the post offices, or whether we will allow the Convention States' post offices to continue in their present position.

Sir Samuel Hoare: May I ask a question about post offices? What actually happens now in the States which are not Convention States?

Sir B. N. Mitra: Fifteen States are outside the postal unity, and ten of these have no Convention. Hyderabad is one example. Hyderabad has not a Convention, and is outside postal unity. The position is fully summarised in the Butler Committee's Report:—

> "The services of the Imperial Post Office are enjoyed by the Indian States in common with the rest of the country. Fifteen States have their own postal departments, and are outside postal unity. Five of these States have conventions with the Imperial Post Office and work in co-operation with it. In the other ten States the greater part of the correspondence within the State is carried by the local post offices while branches of the Imperial Post Office exist at most important places and carry correspondence across the State frontiers. In most of the Convention States, Imperial Post Offices exist only on territory which is British for purposes of jurisdiction, such as railway stations, the residency area, etc."

That describes the procedure.

Sir Samuel Hoare: What really happens? What is the distinction between the two systems? Take the case where the British organisation works in the railway stations and the State organisation works elsewhere. What is the distinction between the two?

A Member: Postage stamps.

Sir B. N. Mitra: Where there is a convention there is intercommunication; that is, a letter posted in a post office of that

State can be carried to any part of British India. On the other hand, where there is no convention, as in the case of Hyderabad, the letters have to be sent first to an exchanging station and re-posted from the exchanging station to other places in British India.

Sir Samuel Hoare: The exchange station is the British India station?

Sir B. N Mitra: That is right.

Colonel Haksar This distinction is this—where a State and British post office exist side by side, the British post office inside the railway precincts and the State post office outside, if you post a letter in the State post office enfaced with the British stamp, it goes forward as a bearer letter. If you enface it with a State stamp and post it inside the railway station it becomes a bearer letter. In other words, British India and the States in these cases get the benefit of the railway In a State post office you use the State stamps, and yet it is an inland convention which means to say that a letter posted in Gwalior in a Gwalior post office will go to the furthest limits of India with the Gwalior stamp

H.H. The Maharaja of Bikaner. We are getting on to general matters Of course there is really a great deal of explanation which will be necessary, I will not say to justify or not justify certain arrangements at present, but that is really a question of past usage and things in regard to which the States have certain grievances. We can take that up as a general discussion, which might elucidate the matter for the benefit of those who are not intimately connected with the States, or, like my friends, Sir Tej Bahadur Sapru and Sir Muhammad Shafi, who have been, as Law Members, associated with the Princes Chamber Standing Committee, where all these questions of revision of political practice have been discussed. If you will allow me at some time, I will make that clear, but just now the main question you asked hinges on a point of dispute between the States and the Paramount Power or the Government of India, or whatever you like to call it.

Jurisdiction is a vexed question as regards what we call Imperial services like the post office, telegraphs, and so on. There have been extraordinary cases where even a peon has committed offences and our courts have been denied jurisdiction. I do not want to go into that aspect now, but what would at present happen in the post office in our States? I do not know what the system is in Hyderabad, but the prosecuting authority is the Imperial Post and Telegraph Office If the postmaster commits an offence in, say, Hyderabad—I cannot tell you about Hyderabad, but in Bikaner the prosecuting authority is the Imperial Posts and Telegraph Office.

Sir B. N. Mitra: Your Highness, that is the practice in regard to all British post offices, whether they are situated in Hyderabad or in Bikaner, because the man concerned is an official of the

British Government. and the British Government would be the prosecuting authority.

H.H. The Maharaja of Bikaner: Who tries him?

Sir B. N. Mitra: He would be tried in a British court. It is British jurisdiction.

H.H. The Maharaja of Bikaner: In our case they prosecute him in our courts. so I understand.

Chairman: Yes. I think that is right.

H.H. The Maharaja of Bikaner: There have been objections raised about jurisdiction. and so on. but we have maintained, of course. that the prosecuting authority is the Imperial Posts. Among a lot of things. one of the very first subjects we took up when Sir George Lowndes was Member, before Sir Tej and before Sir Muhammad. was that. We have been revising political practice: I do not want to go into that now, but the whole system has grown up, and we are revising political practice, and these questions are all under consideration about government servants and imperial servants. and. as Col. Haksar has said, these will be matters for discussion and negotiation afterwards. If it is a Federal service. either the Federal Government would prosecute, or they would ask our governments to prosecute, and naturally the States would say. "It should be tried in our courts."

Chairman: I am very much obliged to the Maharaja of Bikaner. That clears up what I want to say. Might I now make a suggestion. because somebody has got to make suggestions. It will go on the note. Surely postal unity ought to be our policy. A few of the States will remain in isolation: they have conventions by which their postal departments were in conjunction with the Imperial Department. The most important of these are Hyderabad, Gwalior. Patiala and the Sikh States in the Punjab. Now. it would be perfectly useless of me to sit as Chairman if I did not say quite bluntly the sort of things you will have to discuss. and it is no use my glossing over things. Why are the States anxious—what is one of the reasons that the States are anxious—about running their own post offices?

H.H. The Maharaja of Bikaner: Revenue.

Chairman: That is what I have got here. The main reason is that the States consider that they should augment their revenues by running their own post office.

H.H. The Maharaja of Bikaner: And sovereignty.

Chairman: I am coming to sovereignty in a minute. Well, now. I wonder if I might put this reply to the States on that point. I am going to make a suggestion. The first thing one would have to consider there is this. Supposing the States were to say "Well, we are not coming in, because this a source of revenue which we do not want to lose." Now, what are the two things, one on each side. We are all agreed upon the first things. that postal unity is desirable if possible. It ought to be our

policy. I follow the argument with regard to revenue. Now, I want to put this to you: I wonder (1) what the distributable profits are, and (2) in what way, in a proper and good system, they ought to be applied. On the last question I should have thought, subject to your better judgment—and I do not know much about these things—that suppose there were any revenue to be derived, one of the first things to do would be to use it for the improvement of the service, and obviously therefore, if you are going to have a unity all over India the same thing ought rather to apply there, that we should use revenue for the purpose of improving the unified service. Might I just give you a figure or two

The Postal Department, as such, has shown no profit since 1927. Well, of course, if there is not much profit we need not trouble much about the revenue. But I want to go on. The estimate for the current year estimates a deficit of 13 lakhs of rupees. Now comes my answer to Col Haksar, who was a little premature in cross-examining me. Losses on telegraphs have varied from 7 lakhs in 1925 to 20 lakhs in 1927, and are now approaching 40 lakhs per annum. If there should ever be any surplus, it would be used in improving the facilities offered to the public or in reducing the existing charges for those facilities In my view—please do not think I want to dogmatise—a Federal Government would find it impossible to localise the accounts of the Department, or it would be a very long job, so as to show profit or loss in any particular area; but I think that a Federal Government, with control of the Post Office, ought to be prepared to treat the States on exactly the same footing as the Provinces of British India in all respects including this supposing it should so happen—I do not say it would, Your Highness, but let us put it the other way—supposing it should so happen that one of your States made a loss. I do not say yours would Surely, therefore, if we are all going to work together, it would be a great thing for a State which made a loss in its post offices to come in the whole sort of system, you see, because they would get the good service, perhaps, out of the profits of the unified service I am going to stop there a moment Therefore I say with regard to revenue, might it not be better, subject to any adjustment, Your Highness, for us to come in together, because it has this advantage, although perhaps you do not get all your profits—and, as I have ventured to show you, the profits over and above what you ought to expend on improvement of the services may not be very great—at all events, to equalise your losses

The next thing I wanted to draw your attention to was this. The first thing was Revenue. The next thing is patronage. Now, it might be, that if you had this Federal system you could come to some sort of negotiation, as His Highness has pointed out, with regard to patronage. I do not think this is a matter which really ought to stand in the way of a happy and a prosperous India.

[illegible]

[illegible] I [illegible] the three points [illegible] had been omitted, [illegible] a State like Hyderabad [illegible] Post Office and postal stamps, and that [illegible] has been considered from time immemorial to be an [illegible] and I may tell you, Sir, that some years ago [illegible] His Highness's time, which has been repeated in His [illegible] Highness's time, it was definitely said that the [illegible] and [illegible] are the [illegible] insignia of sovereignty [illegible] will give up. It is not a question of revenue, [illegible] repeatedly asked by the British Government to [illegible] Post Offices because they do not pay. We are not [illegible] a source of revenue. They do not pay. There are times when [illegible] in the same position as that in which British India is finding itself during the last four years. Therefore, this is a matter of having our own post offices and postal stamps which I, as the representative of Hyderabad, will not be able to agree upon [illegible] on any ground which is [illegible], but as a matter which is considered to be an essential element of sovereignty and dignity.

You were quite right, Sir, when you said that we must work for a prosperous India and that postal unity should be our aim. Now, what do you want by that? You want, I take it, that the rates of postage should be uniform. I may tell you that at present the rates of postage in Hyderabad, in our own post offices are lower than those in the British Post Office, and therefore, British tradesmen, tradesmen in Secunderabad and round about, all use for local work our post offices, and they do not go to the British post offices. So I can quite understand that we might agree with regard to the question of uniformity of rates. There is another reason why you might want common postal unity, and that is that there should be no break of gauge, as I might say—there should be no necessity for the interposition of exchange offices. I may tell you that, having had to do with the Postal Department in connection with the Home portfolio which I had some years ago, I am somewhat conversant with this subject.

Everywhere in Hyderabad formerly it was necessary, before any letter went from our post offices which were all over the Dominions, to any place in British India, that it should have our stamp affixed to it in addition to the British stamp—that is, there was a double charge for any letter going from our post offices in districts like Parbhaun or Aurungabad, and posted to Bombay. We said that was too much, and if we could thereby

gradually stop the "peaceful penetration" of British post offices, we might give up this revenue; so that now we are carrying letters posted in our post offices, posted in our districts, to British India, without any extra fee; the ordinary postage of British India carries such a letter through. But on the other hand, British India has definitely refused to take our letters posted in our post offices to British India on our stamps. It has refused to take them. Therefore if there is any difficulty it comes from that side, and freedom of transport would be secured if it was recognised that any letter posted with a stamp of a value that your Department prescribes, whether it be a British stamp, or whether it be an Indian States stamp, should be carried all over the circle of the area You would thus ensure that same advantage of postal unity which you would ensure if you had no distinctive postal stamps for the Indian States. What is the objection to allowing Indian States to have their own stamps, so long as the convenience of the correspondence, which I take it, is the sole aim of postal unity, is ensured?

The third question which may arise is with regard to such things as defalcations in the Post Offices in Indian States or British India It is quite possible that such things may occur, and that will have to be dealt with in future legislation There should be common legislation with regard to all postal matters which will be binding all over India What I conceive is that Greater India should be under one postal union, but that the Indian States should be allowed to use their own stamps in their own territory, and that letters bearing those stamps should be taken to any part of the postal union, exactly as letters from any part of the postal union will be dealt with in the area of the Indian States. Such legislation will also provide for dealing with crimes or wrongful actions committed by anybody, and should provide that such derelictions of duty or crimes should be dealt with by the courts within whose territorial jurisdiction the crime is committed. We may go even further and say that a right of appeal would lie to a court to be decided on. These are questions of detail to be settled by negotiation All I want to urge is that if we want to have our own Post Offices and stamps, that need not necessarily stand in the way of postal unity for the whole of India, which you, Sir, have rightly insisted on.

Mr Jinnah · I should like to ask one question arising out of the statement Sir Akbar Hydari has made I think your point, Mr. Chairman, was not as to the forum where the offender should be tried, but as to who would be the prosecuting authority I do not think Sir Akbar Hydari has answered that. He seems to be under the impression that the offender must be tried by a forum within the jurisdiction of the State in which his offence is committed, but I do not think that was your question.

Chairman. No, it was not quite my question.

Mr Jinnah : The question was who should be the prosecuting authority?

H.H. The Maharaja of Bikaner: I will answer that. If it was a Federal Service, or, as it is now, an Imperial Service, the prosecution should be by the authority concerned, but would be in our courts if the offence was committed in the States. I suppose the Federal Postmaster-General would direct his subordinates to prosecute, unless our people were asked to prosecute, in which case we should undertake it.

Sir Tej Bahadur Sapru: I wish in a very few words to explain the exact legal position in India as I understand it. As things stand at present, the Indian Legislature has no power whatever to legislate for any territories outside British India. It follows, therefore, that the Indian Legislature as at present constituted cannot legislate for the Indian States. The Post Office Act has been passed by the Indian Legislature and it is, strictly speaking, operative in British India, because it cannot be operative in the Indian States; and, therefore, it has become necessary to enter into certain Postal Conventions. If it were operative by its force in the Indian States, there would be no occasion for Postal Conventions; Postal Conventions arise in the case of different States.

Now, if you federalise this subject, it follows, to my mind, more particularly after the authority Your Lordship read this morning, that there will be one common legislation, legislation which will be operative not only in British India but also in the Indian States. I am assuming the Indian States federate with regard to this subject. In that case it should be understood very clearly, because on this point I do want to be very clear, that it will not do for the Indian States to say " You pass your legislation in British India, and we shall pass similar legislation in our States ". That is not federation. The moment, therefore, the Federal Legislature passes that legislation, it will be as much operative in British India as it will be in Hyderabad or Bikaner or any other State.

There will be no occasion, when that legislation has been passed, for any Conventions to arise, for that would cut right across the whole principle of federalism. If the Post Office Act is passed by the Federal Legislature and becomes operative in the Indian States as well as in British India, it seems to me it will lead to chaos and confusion if under that Act you have a double agency working simultaneously, responsible to different authorities at the top. This has been tried in America, and the whole system of double agency has led to a trmendous amount of confusion in the Courts of Law there, and I should like that to be avoided.

There is a further point I wish to make. What Sir Akbar Hydari says is, to my mind, entirely opposed to the very principle which you, My Lord Chancellor, were pleased to read out from the standard book you quoted. I can quite understand his anxiety about sovereignty resting on postage stamps, but sovereignty is also affected by legislation by Federal India, and, as the Lord Chancellor points out, when you enter into a federal

body you create a federal sovereignty; the sovereignty becomes divided, and therefore I do not really sympathise with the point of view that by merely preserving the right to affix their own postage stamps they preserve their sovereignty, although they know that in the matter of legislation they are surrendering their sovereignty and accepting the common joint sovereignty of the Federal Legislature.

Coming again to the question of jurisdiction, I beg Your Lordship, if I may very respectfully do so, to bear in mind that there is no other country in the world, with the possible exception of America, where there is such a tremendous amount of confusion about jurisdiction as there is in my country. I say so with my experience as a lawyer. It is all very well for Sir Akbar Hydari to say that the prosecuting authority will be the Federal Government but that the Court which will try the offence will be the Hyderabad Court I am not sure if, as the Law stands, it will not give rise to settled points of law, and therefore you have to make up your mind, if there is going to be federal legislation and the Post Office is going to be federalised, that questions of jurisdiction and the question of the prosecuting agency will have to be revised in the light of that federal legislation. You are thinking of the present system, but the present system will not fit in with the federal system, and therefore I want to be absolutely plain about this: once the Post Office becomes a federal subject, the whole of your law will have to be revised to suit the needs of a federal system; let us not continue to argue upon the present hypothesis.

H.H. The Maharaja of Bikaner I wanted permission to speak on this very question of jurisdiction, and that was the permission I asked for yesterday. Before going into that, may I say that as the result of this discussion it is brought home to me more and more that the fiscal side, or rather the financial side, of this matter will have to be gone into. It will arise on practically all the revenue-earning heads. And of course my friend Sir Bhupendra Mitra is in request on every sub-Committee, with his great knowledge of finance with the Government of India and moreover I hear he is going away. I do not know in any case how he can work on all these numerous Committees. Colonel Haksar raised the point on the very first day about the contribution already made by the States I am not a constitutional lawyer, or even a lawyer at all, but I do think that whatever form Federation may take, its financial aspects will have to be very thoroughly investigated, and I am not sure that a small sub-Committee of our own sub-Committee will not have to be appointed in order to deal with the fiscal part of the matter. Dealing with the financial aspects, the question of the sharing of receipts and so on has been under discussion and has been a vexed question for a long time If we are going to share in the loss, or whatever it may be, I think the States would also want a voice in the shaping of the executive policy. That comes under the

executive part of the federal system. I believe my friend the Postmaster-General is not altogether unaccustomed to being criticized on the ground of extravagance and so on; I seem to recall a good deal of comment on such questions. It is the same in India.

Leaving that for a moment, the question of jurisdiction is the one that is troubling me. I am not a lawyer, and I bow with great respect to you, My Lord Chancellor, and to my friend Sir Tej Bahadur Sapru, but he will also understand, I am sure, the standpoint of the States. I quite realise it is impossible to have different laws and to have conflict, for that would make Federation impossible. I want your assistance and that of our learned friends on the other side as well as on this side of the table on this matter. I am sure this will not be a stumbling block, but there is a very strong feeling on the grounds of sovereignty and so on in the States about this question. I say at once that I am prepared, and I think the majority of the States at any rate are prepared, to agree that the same federal law must apply in all federal areas, including the States federating.

Not knowing anything about it, I have consulted friends and our own legal advisers, and I understand that in some Federations there is what is known as concurrent legislation. I do not want to be misunderstood. If the Federal House, or whatever it is to be called, passed an Act, say on this very question of Posts, that law must apply to all our States. I do not want there to be any misunderstanding about that; we cannot have differences, for otherwise, as Sir Tej Bahadur Sapru says, there will be tremendous chaos and confusion. I realise also that if we go into a Federation we shall surrender our sovereignty in certain directions and then share it; I realise that. But as sentiment does play a part, and as the States are very sentimental, if nothing else, I think we may be able to find among the various existing Federations some system of concurrent legislation by which a law can at once be applied. Give the States a chance of passing the same legislation concurrently, at once, and then, if they do not do it, I for my part am prepared to consider powers being vested in the Federal Legislature to make that law applicable to that State. I think that disposes of the objection to that point. There is one more point. There are cases where local circumstances have to be considered. To give an example, the question of aerial navigation had to be dealt with. I do not want to go into details, but that is a thing the States have been fighting, and we have had disputes with the Government of India since 1922, when I was Chancellor. It was only recently—I think about March of this year—that we arrived at a compromise satisfactory to both parties and to which I hope effect will now be given. We have been doing the same sort of thing in all our revisionist policy, and I think some points were settled in the time of Sir Muhammad Shafi, some in the time of Sir Tej Bahadur Sapru and some before that in the time of Sir George Lowndes. With regard to Rail-

ways the same thing has been done, but I should like to read to you the offer the States made with regard to aerial navigation, and which was accepted: "The States should urgently enact and enforce legislation on the lines of the British India legislation with regard to navigation in the air and rules and regulations thereunder for the time being in force. Any changes or variations required by local conditions should be made after consultation with the British Government" We have a similar clause with regard to Railways, but I cannot lay my hands on it for the moment.

My point, therefore, is this I believe in the German Federation there is a similar provision for the different Federating States to pass laws. Sir Tej probably knows more about it than I do. The difference is really between executive action and legislation, and those are the points involved. I suggest that some procedure might be adopted by which variations for local conditions might be made in consultation with the Executive or the Federal Legislature. There are cases where different conditions demand different treatment. In regard to legislation, in British India the laws naturally refer to the King-Emperor as the Sovereign of the State We have practically adopted the whole of the penal code of India, but where it speaks of waging war against the King we have substituted the Sovereign of the State. Where the law talks of waging war against the Sovereign in British India it refers to the King, but in our State we have changed the phraseology to suit the Sovereign of the State. Again, in certain Hindu States cow killing is an offence, and we have modified the law to suit things like that

I have been wondering whether we cannot evolve something by which, though the same law shall apply, it is possible for provision to be made to meet the peculiar needs of the different States. It is not safe to assume that in the case of a single subject declared to be of common interest there will not be in a single State some local conditions which will require specific additional proposals or modifications. I can conceive, however, that any one State which finds it necessary to secure such modifications will not be able to obtain a hearing for its demands in a Federal House, and therefore there is a danger that the Federal Legislature may dismiss such a plea as a minor point, but it may be, for sentimental or other reasons, a point of great importance to the State concerned. It would therefore seem desirable to have a procedure by which, with the consent of the Federal Executive or the Federal Legislature, these special circumstances could be taken into account and provision made for them. I hope the Lord Chancellor, with his great experience, will be able to help us in regard to what happens with regard to that Dominions in the case of uniform laws

Sir Muhammad Shafi: May I say one word? In the existing conditions it is perfectly natural that every Indian State would look at a problem like this from what I would describe as an

individual State angle, because, as has been pointed out, legislation passed by the British Indian Legislature can extend only to British India, and has no operative force in Indian States. The necessity of a convention such as has been read out by His Highness to the effect that when legislation is passed by the British India Legislature the Indian States will also enact similar Statutes in their own respective territories, is essential in the existing conditions. Only what I beg of His Highness and the other Princes to bear in mind is this—that when an All-India Federation has come into existence, and the policy and legislation in regard to Posts or Telegraphs or Railways is conceded by the Indian States to the Federal Government, it will follow *ipso facto* that any legislation passed by the Federal Legislature will apply equally to the whole of India, including the Indian States; and the necessity of such a convention as has been established at present will then cease to exist. I cannot see how on any other hypothesis policy and legislation can vest in the Federal Governments and not in the constituent units of that Federation.

H.H. The Maharaja of Bikaner: I think we are confusing two things. I was hoping that the same object would be attained. We could even have a stipulation about the period of time in which it must be passed by a State, but I do think it is not correct to say that this is impossible, because there is the case of the German Federation. The territorial integrity of the States is not being affected. We are certainly agreed to surrender part of our sovereignty, but we are making it very clear that we want to retain our internal authority and sovereignty, and that power of legislation in all other matters is to remain with us anyhow. I cannot see, unless there are serious difficulties in which case we are quite prepared to reconsider the matter, why we should not try to see whether there is some instance already forthcoming to help us. I want to make it clear that the States will fight shy if we go too strongly, when we can achieve exactly the same object and get over all the other difficulties by a way which will appease our sentiments.

A Member: I would like to put one question. What stamps are used in Prussia and the other sovereign States of Germany, and what stamps are used in the U.S.A.?

Sir B. N. Mitra: There is one stamp for the whole of the U.S.A. Under the old German constitution three States were given the power of having separate stamps. Under the new constitution there is one stamp for the whole of the German Republic.

Chairman: I have Article 88 of the German Constitution here: "The postal and telegraph services, together with the telephone services, are exclusively the affairs of the Reich. Postage stamps are uniform for the whole Reich."

Sir B. N. Mitra: I want to deal only with the particular question whether the Post Office should be a Federal concern or not. Generally speaking Their Highnesses and their Ministers

are in favour of the Post Office being a federal subject. I say, "generally speaking" designedly, because I shall come to the case of Sir Akbar Hydari later. That will mean that so far as Post Offices are concerned there should be a law passed by the federal legislature. The Post Office Act should be re-enacted in the federal legislature to apply to the whole of India

I come now to what His Highness of Bikaner said about rates and salaries. The rates will be fixed by the Federal Executive

Federal Legislature, or they

itself, as is happening now

which are fixed annually in

the Indian Taxation Act. As regards salaries, naturally the responsible Minister will have to take action and will have to secure the necessary vote from the Federal Legislature for the money required to pay those expenses. His Highness of Bikaner is under a misapprehension I think He suggested that very high rates would be paid——

H.H The Maharaja of Bikaner I was not suggesting that I said that the Minister might be open to some criticism, the same as his predecessors were.

Sir B. N. Mitra: What you referred to was the fact that in recent years we were compelled to raise the pay of these people, who are almost wholly Indians, and people getting very low rates of pay A postman in India nowadays, generally speaking, gets Rs 30 a month That is very little as compared with what a postman in England gets We have been creating a service of pure Indians as opposed to a service which in the past has been manned wholly by Anglo-Indians. Any revision of salaries will require a vote of the Federal Legislature, and the proposal will be placed before the Legislature by the Federal Executive.

His Highness of Bikaner referred to the surplus and the profits, and also referred on that connection to a financial Sub-Sub-Committee. May I say in this connection that there is not much advantage in setting up such a Sub-Sub-Committee until we know what are the subjects on which we are going to federate Take the Post Office itself If it is the general desire that the Post Office should be one of the subjects of federal concern then naturally the loss will have to be met from the federal resources, and any surplus will become part of the federal resources. There will be no question of dividing the loss or the surplus amongst the Federated States.

I next come to Sir Akbar's point. I think I am correct in saying that there are about 300 Indian States. If we were to follow Sir Akbar's point on what seemed to be fundamentally a sentimental ground, and allow each of these 300 States to issue distinctive stamps which were to circulate all over India, just imagine the position of a poor postmaster in some obscure corner of Assam. How he would be able to find out whether they are genuine stamps or forged stamps absolutely passes my imagination. If we have to give that concession to every State it will leave the door open to forged stamps and a loss of revenue and a loss of efficiency of

service. Sir Akbar said that the concession might be given to a few States—to those that have it already. If it is said "We have had this concession in the past, and we think it should be continued," and if Their Highnesses say "We agree, and we are not going to ask for this concession to be extended to the other States," then it might be a practical proposition; but it is really a matter of detail. As a matter of fact, excepting Hyderabad, the others really use overprinted British stamps, so really the question of sentimentality does not arise. Hyderabad is the only State which has a distinctive stamp.

Sir Mirza Ismail: No, Travancore and Cochin have distinctive stamps.

Sir B. N. Mitra: That is a matter of detail. If Their Highnesses say that this concession is not wanted for all the States, but that those who have got it may be allowed to retain it, perhaps that may be considered a favourable way of dealing with the matter, provided of course that these States agree to enter the Federation. If they do so, that disposes of your main proposition that the Post Office should be a Federal subject.

Sir Mirza Ismail: The States of Travancore and Cochin have their own postal system, to which they attach very great value, it may be for purely sentimental reasons. They regard it as an attribute of sovereignty. There is no doubt that it is one of those subjects which has got to be regarded as a Federal subject if we want to make this Federation a reality.

I should like to put forward two suggestions for consideration, either one of which may perhaps solve the difficulty. One has already been anticipated by Sir B. N. Mitra. I was going to suggest, either use State stamps in the post offices in the State, the administration and everything else connected with the Post Offices being transferred to the Federal postal department; or allow the States to use their own postage stamps only within their own territories and not on letters intended to be carried outside. I think personally the first suggestion would seem to offer the best solution of the difficulty. That would satisfy the sentiment of the States concerned, and so long as this concession is not claimed by or extended to other States it will keep it within the proper limit.

Mr. Sastri: You were good enough the other day, Sir, to speak of my point of view as the idealist's point of view. I take that as a compliment. In this matter I wish to interpose a certain remark from what may be perhaps described as the idealist point of view. You read to us a passage to-day in which it was clearly pointed out that the individual citizen of a Federation becomes a citizen of the Federation for certain purposes. We have therefore if possible to look at this matter from a citizenship point of view. In India at present there are too many variations and too much disparity of conditions for all purposes. Take any one matter. We find separate conditions in separate parts of the country. For national efficiency we desire to come into a federation, and at least in certain matters and for certain purposes we seek to abolish these differences and

teach the invidual citizen to regard himself in respect of those limited matters as a citizen of one unified State. Commonly, the Post Office, in which efficiency and uniformity are most vital, is regarded as one of these subjects everywhere. To stereotype the existing variations in respect of the Post Office goes to the very root of the matter So far as certain subjects are concerned, as soon as the Federal Legislature passes a law every individual citizen of the Federation comes under it naturally, or ought to be made to come under it naturally. No other authority should be interposed between the individual citizen and the Federation for those purposes. His Highness of Bikaner's idea cuts across this essential idea.

H H The Maharaja of Bikaner It is done in other countries

Mr. Sastri: What is done in Germany is not that which necessarily ought to be followed here We are trying to learn now by the experience of the world We are not trying to imitate the mistakes that were made elsewhere, and which were found afterwards to be mistakes. Unity in respect of the Post Office, it seems to me, is most essential I should not like to be Postmaster-General in a so-called Federation where I had to treat with 600 different entities for certain administrative purposes. Even in administration it seems to me that, in respect of the Post Office, unity would be necessary. Take for instance the different ideals of efficiency—prompt delivery, cheapness and efficiency, reliability of money order payments and so on, and the Postmaster-General being unable to interfere and put matters right where they had gone wrong

H.H. The Maharaja of Bikaner. We are not claiming administration That would be Federal. It is only the power of passing a Stamp Act Administration would be Federal, naturally

Mr. Sastri If administration is going to be Federal then of course there is less reason——

Mr. Jinnah · May I know what they are claiming?

Sir Muhammad Shafi · I thought Their Highnesses agreed to Federation in regard to the Post Office, subject to certain States which now issue distinctive stamps being allowed to issue distinctive stamps in future Otherwise, legislation and administration will all be federalised.

H H The Maharaja of Bikaner: It is impossible.

Mr. Sastri · That is my point of view. I should like it to be recognised that we are creating a new Federation, with a citizenship of its own for certain purposes. The moment a law is passed, the moment the Federation takes a certain action, every individual living within the jurisdiction of that Federation comes under it, and no intermediate authority should be required. That is the way uniform citizenship for India has got to be created Every one of us has got to be taught to believe that in respect of certain matters he is the citizen of a very large, all-embracing entity.

Sir Mirza Ismail: So far as this question of concurrent legislation is concerned, it seems to me that it would be more profitable to

deal with it, not as a general proposition, but with reference to each particular subject. For instance, so far as the Postal Department is concerned, I should say legislation must apply to all States irrespective——

H.H. The Maharaja of Bikaner: I was not talking so much of the Post Office Act: I was talking of legislation and administration being concurrent.

Sir C. P. Ramaswami Aiyar: May I ask a question, just for the purpose of clearing my mind. So far as legislation is concerned, I do not mean to suggest that in the matter of post offices any legislation that is passed by the Federal Legislature duly constituted should not apply to every individual component part of the Federation.

H.H. The Maharaja of Bikaner: That is what I do mean.

Sir C. P. Ramaswami Aiyar: Therefore I take it that what is passing through His Highness's mind is that certain basic principles should be settled, the details to be worked out by the subordinate legislatures. Is that what you meant?

H.H. The Maharaja of Bikaner: Yes, that is what I meant.

Chairman: We will put this, please, in the provisional Federal list.

Customs, Income Tax, Salt and other sources of all-India Revenue.

Chairman: Now we come to No. 11, please. No. 11 is marked "Customs, Cotton Excise Duties, Income Tax, Salt and other sources of all-India Revenues".

Sir Muhammad Shafi: Cotton excise duty goes out. That has been abolished.

Chairman: Let us come to the first one, please. What about the first one, Customs? Now, somebody has got to start this. Might I ask a question? Do not think it is my own genius: I have some things put out for me. If the idea of Federation is to be adopted, the object in view would be to devote the Customs revenues to matters of common concern, which are of benefit to all the federated units, and to ensure that no unit is forced to contribute more than can be equitably claimed for that purpose. In attaining this object the following are some of the questions which would have to be solved: (1) Will the Maritime States agree to Customs at their ports being collected in future either by or under the supervision of a Federal authority, and being paid into the Federal pool? If so, will they have to be compensated for the resulting loss of revenue and for money expended by them in recent years on the development of their ports?

H.H. The Maharaja of Bikaner: I am afraid we shall have to call a representative of the Maritime States for that, except as regards Travancore and Cochin. One of us may be able to speak about Travancore and Cochin, but I do not feel that any of us here could speak for the Kathiawar States, Cutch and so on. We ought

to call, perhaps, the Jam Sahib of Nawanagar and the Maharaja Gaekwar of Baroda. I feel that I could not take the responsibility. We are dealing, I understand, with the Maritime States.

Chairman Had we not better ask one of those Maritime people to come here? We are letting it stand over. The next point is Income Tax. Should that be a Federal subject?

Sir Mirza Ismail. No.

H.H The Maharaja of Bikaner No, I do not want to impose Income Tax on my subjects.

Sir B. N. Mitra: That is a matter on which, if I may say so, it is hardly possible to arrive at a decision at this stage, because once we have come to know what the Federal sources of expenditure are, then we shall have to fix the Federal sources so that the yield of that revenue may be equal to the Federal expenditure In the case of Customs, of course, apart from the revenue part of it, there are other considerations, among them the effect on the trade of the country. For instance, if British India had a certain rate for goods and the Maritime States another rate, then there would be difficulties in the way of trade. In regard to Customs, the position is quite different, but with regard to Income Tax and the other sources of revenue, they will largely depend upon what the total amount of your expenditure on matters of Federal concern is going to be, and then you may have to consider the whole question as to how the residual sum—that is, the amount which cannot be met from the Customs revenue if that is federalised—is going to be obtained.

H.H. The Maharaja of Bikaner I am afraid we can never agree to make Income Tax a Federal subject

Chairman: Well, the sort of view that had occurred to me was something like this. I quite see the advantages and the disadvantages, but on the whole it rather seemed to me—and I am only giving my individual opinion—to be inevitable that Income Tax in a federated India should become provincialised, and should not be used for financing the administration of Federal Departments

Sir Muhammad Shafi: We entirely agree with that proposition.

Sir B. N. Mitra: At the same time, if I might venture an observation, in other federated States the tendency has been to make Income Tax a Federal source of revenue, as they could not find any other source of taxation from which the balance of the Federal expenditure could be met. For example, in the United States of America, that, I think, came in later. Though I think it was not in their original Articles of the Constitution, they had to put in an additional Article specially to provide for this contingency.

Sir C. P. Ramaswami Aiyar: I have in mind especially the possibility of evading taxation as between the Provinces If, for instance, one Province in British India could levy one rate of Income Tax, and another Province could levy another rate of Income Tax, there would be a great deal of evasion of tax altogether. That would be a very real danger.

Sir B. N. Mitra: That consideration applies also to the Indian States. When I was in the Finance Department, I came across prominent cases of that sort.

Chairman: Very well. We need not discuss it at present, because the opinion, at any rate at present, as far as the Federal thing is concerned—I am not talking about Central—what I read out, was—I will read it out again—" not to be used for financing the administration of the Federal Departments ". I am distinguishing between Federal and Central. But you are quite right to direct my attention to it; I did put it inaccurately.

Mr. Gavin Jones: It is all very well to say exclude income tax. It is quite an easy thing to say, and we in British India would be only too glad to see it excluded, but I doubt very much if you will be able to do it, and therefore we shall have to consider this later on. We know perfectly well that we cannot levy income tax on individuals in Indian States, but there must be some way of adjusting it, and I think that eventually income tax will have to be a Federal subject.

H.H. The Maharaja of Bikaner: So far as the States go, I must object to that very strongly.

Chairman: I am not going to put it upon the Federal list at present.

Colonel Haksar: Again I am afraid I must crave your indulgence for one observation. I said at the beginning—and I have not had another opportunity—that as we go along we should keep it clearly in our minds that in regard to all these various matters there have grown up, there have come into being, certain factors of great importance which would have to be dealt with. As regards salt, I dare say Your Lordship is aware of them, but to-day there exist salt agreements between the Government of India and various States. I, for my part, am willing to say that salt should be federalised, but you must not forget that when we come to details we shall have to discuss these existing agreements under which States get compensation, or are debarred from manufacturing salt.

Chairman: Then No. 12.

H.H. The Maharaja of Bikaner: Just before we go on to that, may I say, when we discussed subjects, what was the new wording we had here—" such other sources of all-India revenue as may be agreed upon ". We are not taking that at all?

Chairman: We are not taking that at all.

Sir B. N. Mitra: May I make an observation at this stage, that the word " Customs " should not be taken as including excise revenue, which, for the purpose of accounts and budget, is treated as a Customs revenue—that is, excise on petrol and kerosine.

Currency and Coinage.

Chairman: No. 12, Currency and Coinage—what about that?

Colonel Haksar: We should say Yes.

Sir Akbar Hydari: Our position with regard to Currency and Coinage is very similar to that on Posts. Here again I should like to make it clear that, as with regard to the Posts, we say that legislation, administration and policy should all be federalised. but we cannot give up that small insignia of authority of having our own stamps, which even the German States, after their federation, took a long time to give up, and trusted to the lapse of time for them to give way when the federal sentiment had grown strong.

With regard to currency and coinage, I must remind you that

coinage, because I am making a little profit on coinage myself. With regard to policy, and so on, on currency, we are perfectly ready to make it Federal, and we have co-operated, as a matter of fact, with British India We have co-operated to this extent, that we are trying to support their policy of having a definite ratio between the £ sterling and their rupee, and adjusting the value of our rupee to the British India rupee; so that our policy on our coinage is to a certain extent dependent on the British Indian coinage Therefore, whilst I shall be prepared to come as far as possible with regard to arriving at common policies, and in legislation and in administration, to a certain extent, I must ask that I may be allowed to retain the Nizam's inscription on the coins which run through his Dominions, and any profit that is made should go either to my fisc or to the Federal fisc if it is necessary for Federal expenditure in which I am interested and in which I have a voice.

H.H. The Maharaja of Bikaner. I only want to say about certain States, Sir, that certain States have definitely never had their own currency Certain States may have permanently agreed to abolish it, but in some places that I know of in my part of India—Bikaner and Alwar—we have the right by treaty to start it now I do not say we are going to start it. I just wanted to say that.

Public Debt

Chairman: The next thing is No 13, the Public Debt of India. What about that? Is that Federal?

Sir B N. Mitra. That is a very big question. I should be very glad if Their Highnesses would agree to that being a Federal subject, but I am pretty sure they will not, because this means that there should be a Federal Borrowing Board to meet the requirements not only in British India, but also the borrowing requirements of the States; and naturally when they borrow money and lend money to the individual States, they must satisfy themselves about the security behind those loans

Sir Akbar Hydari. Does this mean the existing public debt or the future debt? We should not have to come in as regards the past obligations into which British India has entered. I take it this has reference to the future.

Sir B. N. Mitra: It may be a Central subject, but unless the Princes come in knowing their liabilities in the matter it cannot be a Federal subject.

Sir Akbar Hydari: There is a certain element of federality in it. I believe Sir Bhupendra Mitra will support me when I say that at present the Indian States cannot raise loans without a certain amount of negotiation with the Government of India, so that it is really a matter of common agreement between the two.

Sir Bhupendra Nath Mitra: What happens now is this. As in the case of Mysore, before the Government of India agrees to allow a State to raise a loan in India it must be certain it can raise its own loans; it must be certain it has managed to get from the Indian market all the money it wants. Having done so it allows Mysore (and perhaps the same arrangement applies to Hyderabad) to raise additional loans on the Indian market. There are other disabilities from which Indian States suffer with regard to raising loans on foreign markets.

Sir Akbar Hydari: So far as we are concerned, we raise our own rupee loans without any pressure from outside, but, as faithful allies, we always consult as to whether a particular issue at a particular time is desirable, and for that reason we get corresponding help from the other side. Most of our loan transactions, moreover, are with the Imperial Bank, which we hope will be replaced by the Reserve Bank. When we require a large sterling loan, as for the purchase of our railways, we have to come to the London market, and there we did not find it necessary to consult the Government of India, but in spite of that we did consult them, because we thought we could not allow the Government of India to be put into a difficult position with regard to its currency without that having repercussions on our own interests. So far as loan operations are concerned, therefore, they have a certain number of traits which make them Federal.

Sir C. P. Ramaswami Aiyar: I submit this matter cannot be dealt with just now, before we get a conspectus of the Federal resources and expenditure. I do not want to repeat what I said about the income tax, but the position is this. We should not keep in our minds the idea of the present state of things, under which certain States are able to raise loans on their own security and certain States may not be able to do so. I happen to know certain States are in great difficulties about raising any loans owing to a multiplicity of circumstances, but I am looking to the future Federation. It may be when the Federation becomes real and closely knit it will be necessary and advantageous to raise a Federal loan rather than to allow individual States to raise separate loans. That may be better from the point of view of the States; I believe Mysore had to pay 5½, 6, or 6½ per cent. It is just possible in the future Federation if money were required for Federal purposes and the Federation made up its mind a particular loan should be floated, it would be better from the point of view of the international credit of India as well as from many other points of view that that

should be done federally I would therefore not finish the subject now, but put it on one side and reserve it for future discussion.

Colonel Haksar: I suppose it is clear that by the public debt of India what is intended is any public debt to be contracted in the future.

Chairman · Quite right

Colonel Haksar · And not the public debt contracted in the past?

Chairman No.

Sir B. N Mitra · I think Colonel Haksar's apprehensions are to some extent misplaced. There is very little public debt of India which is unproductive, and in regard to the productive debt nothing will have to be met from the Federal resources in future. If this becomes a Federal subject the whole thing may have to be made a Federal subject, because I think I am correct in saying that almost the whole of the past debt is of a productive nature, and the interest paid with regard to it is recovered from the earnings of railways, irrigation works and so on.

Railways

Chairman. Now we come back to No 5 I want to do Railways, and Communications to the extent described under the following head, "Railways".

H.H. The Maharaja of Bikaner We have been discussing this, as Mr Fitze and, I think, Mr. Reynolds and Mr. Patrick will be able to tell you. This question is one of the subjects on which we have at last, or rather one of the two subjects on which we have got a satisfactory compromise in connection with the revision of policy I do not want to deal with that subject at length, but the complaint of the States was, and it was conceded by the British Government, that usage and political practice has led to encroachments, however beneficent the motives, on our Treaties. This has been admitted from the Viceroy downwards. The States had no voice in that usage and practice. It was developed by the Government of India as Paramount Power, and the Government of India was very often a party to the particular controversy in question. We have been trying to revise this. I will merely say this in case some one tries to pin the States down—that we have not gone strictly on our Treaty rights, but we have tried to make a reasonable working compromise in these matters For instance, with regard to Posts and Telegraphs, peaceful penetration—I think that is what one of my friends on this side said—has gone on without any ulterior designs, and we made a proviso that any compromise we made was made from a sense of co-operation, not admitting any abrogation of our Treaties. The railway question was one, for instance, where we had actually a resolution passed by the Government of India in 1923 on the 6th December, and I just want to tell you that there are certain cases, so far as the States are concerned, of two kinds, more or less. There are some States that have built, at the cost of the taxpayer of the States, large and important systems of railways.

with the result that on December 6th, 1923, an important resolution was passed to which reference has been made

[illegible] ...ngers and to stop
by the different
end a railway in
...oard, as we do,

and say, for instance, " I want to make this railway in Bikaner State " They may say " Yes, you may " or " No, this is going to short circuit or otherwise damage the North-Western Railway in British Territory ", or whatever it may be, " and we cannot allow it ". We recognise the force of that, and *vice versâ* we turn round and say " This railway is going to affect our railways ".

Chairman · As a competing railway?

H.H. The Maharaja of Bikaner · Yes When, after 25 years of work, we got our irrigation system, a Minister in the Punjab (I do not want to name him) said they were going to make a railway right through my territory and that of another State into British India. We pointed out that this would massacre our whole system of railways, and they replied that the British Government had been graciously pleased to give us their water, and it was therefore their right We said " No," and in that connection I may mention that Sir Muhammad Shafi was Law Member during a very important part of our negotiations, when the States fought with their backs to the wall, and I as Chancellor had to consider the possibility of resigning the Chancellorship, and possibly other members of the Princely Order associated with me also contemplated resignation

I do not want to harp on past history, but it is essential to make the points clear to my friends here and to you, My Lord Chancellor. The claim was made that where in the interests of British India or in the interests of another State it was found desirable to make a railway, that railway should be made, and the sovereignty of the State affected would be disregarded and its objection over-ruled We fought that contention, and it was owing to a very happy formula drafted by Sir Muhammad Shafi that we were saved from this extreme position. I told the Viceroy I should have to resign unless the question was satisfactorily settled. If any of my friends in British India want to understand exactly how the States had the right to oppose even the policy of the Crown, if they will come to me I will show them a very long note I wrote only a couple of years ago in regard to this very question of aerial navigation, and we had to tell the Government of India that the policy sent from the India Office in Lord Birkenhead's regime was one which it was absolutely impossible for us to accept. I have the quotations here, but I do not want to weary you with them.

I want you to realise and our friends from British India to realise that we have *not* absolutely stood and maintained " This is against our treaties and we shall not do it ". Where the real interests of India are involved—not financial interests, but defence and so on—and where it was really desirable or in the interests of the Empire (which is a matter of at least as great consideration to

do what the Government of India did with regard to their own State lines; they pooled all the Railway receipts and made a special arrangement with regard to finance which I need not go into. Take my own railway. It has paid as much as 11½ per cent, and I believe, though I am not sure, it once paid 13 per cent. We have spent 3 or 4 crores in the last ten years in construction. All the money has been found by the taxpayers; my private purse has not got a penny in the railways. Every cent is State money belonging to our taxpayers, and our taxpayers get the benefit by increased receipts which are devoted to nation-building departments and so on. It would be a very great hardship on our subjects to alter our present railway position, and after all, we want to increase the efficiency of our administration, and if we are going to have our revenues pooled we cannot carry on as we would wish. As has already been said, you will have to take account of what the States have already contributed by ceded areas, yearly payments and so on. We cannot agree to sink into a British Province: we have to have our Executive Government, the judicial branch of our administration, our police, our troops, our medical and health services and so on. In India we pay for the medical department and we pay for education. It is not looked after by the local self-government bodies. You will not get the States to agree to hand over their railways unless some arrangement is made—which I do not believe will be found possible—to pay each State all the capital sunk, and not merely what they are earning now, but something to compensate them for all their efforts. I came to the throne at the age of 7, but in the 32 years which have elapsed since I attained my majority our receipts have gone up from 1½ lakhs to about 50 lakhs. We cannot afford to give that up, because we need the money for nation-building departments. If you could make some arrangement which would be acceptable to the States, that would be a different matter.

There is another important consideration. I am not going to argue about it, but an arrangement has grown up, either voluntary or involuntary, but at least technically voluntary, whereby the States, or most of them, have ceded land and railway jurisdiction over the land on which the railway and the railway buildings are situated.

That was done really because in the old days most of the railways running through our States were owned by private companies and they found it extremely difficult. After all, I am talking of about 30 or 40 years ago, when many of the States were very, very backward indeed, and the companies did not find all the co-operation and ready efficiency which they expected from the police in the detection of crime and the detection of property and so on. Therefore, I believe it was at the instigation or suggestion of these companies that the Government of India said to us, "Look here, will you let us have jurisdiction over these lines, and we will administer them". I leave it to ex-Law Members of the Government of India, Sir Tej Bahadur Sapru and Sir Muhammad Shafi, to correct me, or to put it more correctly legally, but I believe that that did not really mean that that land had gone out of our

sovereignty: it is merely the cession of jurisdiction for specific purposes. I leave it there. Not being a lawyer, I will not argue it further. Anyhow, we have taken that question up, and there is no difficulty in regard to certain railways like mine. For instance, within a year of coming of age I was asked——Shall I proceed, my Lord Chancellor, or shall I wait a minute?

Chairman: I was going to help you. This is the form of cession, just what you wanted: "*Jurisdiction on railways passing through State territory. The following is the usual form of cessional jurisdiction on a railway running through State territory and shows the nature of the jurisdiction ceded in such cases:* 'I, blank of blank, hereby cede to the British Government full and exclusive power and jurisdiction of every kind over the lands in the State which are or may hereafter be occupied by the blank railway, including all lands occupied for stations, for out-buildings and for other railway purposes, and over all persons and things whatsoever within the said lands'". You are quite right.

H.H. The Maharaja of Bikaner: You see, Sir. So this went on. For instance, in my case they waited until I came of age, and within a year of my coming of age I had signed an agreement ceding jurisdiction not only for existing railways but for all future railways on my territories. Several States, I believe, have done it, but there are some States, on the other hand, who have not signed that agreement and still exercise jurisdiction; but I speak under correction and I leave it at that.

Now, in regard to this we have had a fight, because the railway companies even let out land for cultivation, they let out quarries and so on.

Chairman: Like the Canadian Pacific Railway.

H.H. The Maharaja of Bikaner: All that is the due of the State, I believe I am correct in saying again. In regard to our railway, for instance, which is not a through important railway of the first class like some of these broad gauge routes in India, although I have technically ceded jurisdiction, and I did that 32 years ago—Mr. Reynolds, who was the agent to the Governor General, is here—we still exercise jurisdiction. The Government of India once asked, about 1909, for us to hand it over, and we said, "It is a tremendous expense," and they said "Very well, you go on", and so I have dealt with every offence committed in the train or on the railway land, within my 23,000 square miles of land—about the size of Holland and Belgium, I believe I am right in saying—entirely. In the other cases we have had tremendous discussions, and alternative schemes have been put forward, but I believe I am also correct in saying—Mr. Fitze was associated with me for some time—that so far as a railway like ours is concerned, that is no difficulty, but there is trouble in regard to railways running through several territories. But that is an important question. The jurisdiction question, however, will arise later. I will not trouble you more about that.

I want also to make it clear that there was an important decision of the Privy Council in regard to Yussuf Din, to which I would invite attention, and finally I want to make it clear that when they ceded this jurisdiction, as my friend Sir Akbar Hydari said this morning, as faithful allies and friends to the Crown, it was as a friendly arrangement with the Crown, and not—do not take offence at is—not to British India, or to any federation of British Indian territory.

H.H. The Nawab of Bhopal: I want to make one observation. You read out this form of cession of jurisdiction, and I think you said jurisdiction of every kind.

Chairman: Yes, jurisdiction of evedy kind over the lands.

H.H. The Nawab of Bhopal · Well, jurisdiction of every kind in many cases, but in some cases jurisdiction not of every kind is ceded; it is criminal and civil jurisdiction alone; the other jurisdiction still remains

H.H. The Maharaja of Bikaner: Fiscal for example. I pointed out that fiscal jurisdiction is entirely for us.

H.H. The Nawab of Bhopal: So that is perhaps not quite correct. There is just one point about railways that His Highness of Bikaner described. There is a third category of railways, which concerns some of us, perhaps, more than Their Highnesses. It is a railway running through our territories which was built by companies, and a lease was given for a certain period, but one of the conditions was that after the expiry of the period that railway can be taken over by making certain payments, and this agreement was made with the railway people by the Secretary of State also on behalf of certain States.

Chairman: Like the Bengal and North-Western

H.H. The Nawab of Bhopal: Also like portions of the G. I. P Railway. Well, quite recently the Government of India decided to take over all the railways, and have taken over the G I. P. railway, and they have taken it over on the terms which I have mentioned, but the States claim that the railways running through their territories, if the States so desire, should come back to the States and not become the property of the Government of India. The railways running through State territories should become the property of the States, not the property of the Government of India, on the same terms as the railways in British Indian territory become the property of British India.

Sir Akbar Hydari; Hyderabad has made the same claim.

H.H. The Nawab of Bhopal · They have taken possession of them, on what ground nobody knows. So there was this case that I wanted to bring forward.

Mr. Sastri: May I say a word. It is my duty to represent what may be regarded as the extreme view on the other side.

For a long time in India we were not decided as to the policy regarding railway administration When I talk of India I mean British India Some years ago the Government decided to appoint

an influential committee, over which Sir William Acworth presided. I had the honour of being a member of that committee. On the recommendation of that committee, to be brief, it was decided that as far as the leases under which the railway companies held their lands fell in, the Government should resume the management of the railways, and certain other items of policy were also decided upon, one or two of which are so important to this discussion that I think it necessary to state them. At present, therefore, in British India, omitting a small mileage of railways, the policy must be said to be one of nationalisation, the Government not only owning but directly managing the bulk of the railways. We have further decided that the old policy by which the Government of India annexed some of the profits of the railways, and added them to the general revenues for the purposes of general administration, should be given up. We have now decided that a certain agreed percentage of the profits —I think $5\frac{1}{2}$—should be taken over from the profits of the railways as dividend upon our capital. We make no profits, and we take no monies at all for the purpose of general administration, and our taxpayer is not benefited, is not relieved, by profits from the railways any longer. This is our policy now, and our reasons for this are fairly obvious. We think that the railways require a great deal of development. We think that the railways are a great means for the economic development of the country, and that while the taxpayer whose money is spent upon them may not receive directly any benefits from the profits, he indirectly, by means of the development of the country through railways, receives such wide benefits that he is amply compensated for the loss of the direct addition to the revenue that we used to make. That being our policy in British India, when we federate with the Indian States, whose policy is different, we ought to be careful to see that our policies are reconciled or made uniform and are not made opposed to each other.

If the State railways are brought into the scheme of federation but are managed on a different system, that means that the policy of nationalisation which has been adopted in British India after so much effort and so much dispute will be either abandoned or rendered partly nugatory through the operation of quite another policy in one-third of the area of India.

His Highness of Bikaner said that the railways were a profitable concern in certain States, and that the profits from the operation of the railways are being used to relieve the general taxpayer. That is exactly the policy we have negatived and abandoned in British India. If the railways of the Federation are to be part of one system hereafter, the general development of the country throughout the area of the Federation—not only British India but the Indian States as well—will be hindered if a great part of these railways are still to be managed on the old lines and their profits considered a proper addition to the general revenues of the States. We could not develop the railways properly, and the economic development of the whole country would be hindered and made to suffer, if over one-third of our area the railways were managed on a totally different system. The Federal Department of Railways

could not spend money on those sections of line which run through the States and put more money into them, broaden the gauge, introduce better methods, and employ higher-paid personnel, and so on, and at the same time allow the profits to be annexed by the individual States One thing or the other must be stopped, and I believe that on the whole the advantages to the Federation will arise chiefly by extending the same policy throughout. I am not saying that we should annex the railways I think the States are entitled to a return on the capital they have spent on the railways.

H.H The Maharaja of Bikaner · At what per cent.?

Mr Sastri. That may be a matter of negotiation, but the railways should not be annexed without any benefit to the States. If the States contend, for example, that for their general administration they have learned to depend on the profits of the railways and cannot afford to forego them all at once, I think equity will justify the financial experts or a Committee which may be appointed providing that before the final adjustment takes place the States should be allowed a certain number of years within which to adjust their finance, and during that time, over and above the ordinary dividend paid on the capital, something more should be paid, as may be agreed Some arrangement of that kind will have to be made financially, but it seems to me that a Federated India, adopting over two-thirds of its area the policy I have described, cannot afford to allow another policy to be pursued as well in the area which comes newly into the Federation I strongly urge that the States are entitled to relief; they are entitled to see that their capital is provided for; but the Federation will suffer grievously, and the development of the country will be hindered, if railways are made a source of relief to the general taxpayer. That is the point of view I wish strongly to urge.

(The Sub-Committee adjourned at 3-30 p m.)

PROCEEDINGS OF THE FOURTH MEETING OF SUB-COMMITTEE No. I (FEDERAL STRUCTURE) HELD ON 4TH DECEMBER, 1930.

Sir B. N. Mitra: The precise position in regard to this Railway Convention, which was adopted by both Houses of the Legislature and thereafter accepted by the Government of India, is slightly different from what the Rt. Hon. Srinavasa Sastri referred to yesterday—that is, it is not a fact that the general revenues get a dividend of 5¾ per cent I think that is the figure he mentioned. What the general revenues do get is this: they get a sum [illegible] 1 per cent. on the capital charg[illegible] capital contributed by companie[illegible] the penultimate financial year, [illegible]s remaining after payment of this fixed return, subject again to certain conditions.

Of course, in addition to that, general revenues get credit for interest on capital contributed from accrued surpluses towards

ates in the interests of commerce, not only of the States, but of India in general In the second place, they may not pay proper attention to the requirements of the workmen for a proper standard of living They must recognise that they are, after all, signatories to the Treaty of Versailles, and though they may not have given effect to the Conventions of the International Labour Organisation to the fullest extent they have certain obligations in the matter. Thirdly, there again, of course, their railways are mostly new lines. When by the effluxion of time they have to meet heavy expenditure on replacements or renewals, they may have either to recover more money from the taxpayers in their States, or they may have to try and float loans in the open market How far they will succeed in doing so is more than I can say at present, but anyhow they would be compelled to meet the charges of those loans As I have said, I see their difficulty from the financial point of view. Some of them at the present moment are appropriating large sums from their railways towards their general expenditure. Well, to meet that I would make special provisions I would treat the capital contributed by any State as interest-bearing capital, and I would give that State a special rate of interest—that is, from the Federal railway revenue accounts a sum would be paid as interest on the capital contributed by a particular State from the resources of the ruler of the State or of the taxpayer of the State, and that sum can be worked out so as to yield to the State the revenue which it is now deriving from its railways. The effect of that will be that this process will not continue indefinitely—i e , the State will not able, so to say, to milch its railways to a greater extent than it is now doing. Then there is the question of policy. The policy will come into force without in any way interfering with the existing revenue resources of the State. That is one point.

The other point is this. Mention was made, I think, about administration. Somebody referred to administration Well, so far as I know, the Railway Board does not interfere in the administration of individual railways except in questions of policy, where the interference is now exercised through the Government of India. and I think His Highness of Bikaner said that they followed these fundamental rules of the Railway Board in regard to matters o policy, and in future, whatever interference there may be on ques tions of policy will be exercised through the Federal Governmen That being so, I cannot see any inherent difficulty on the part the States in agreeing to railways being made a Federal subjec Under every Federation railways are a Federal subject, becau they form the largest link in the communications. These co munications benefit not only the business of the State itself, but the entire community. It will also avoid troublesome question which reference was made yesterday by His Highness of Bikan Supposing it is found that in the interests of the business of country as a whole a line should be constructed from one p say, in British Indian territory to a point in the territory o Indian State, these troublesome questions as to whether the a ment should be agreed to or whether the line should be so al

as to pass outside the territories of the Indian State, will not arise because the Federal Government will decide them. His Highness said the question is one of agreement. I submit that this agreement can either be between the Crown and the Indian State, according to the present ideas of Their Highnesses; but if British India is going to be a Federal State, into which in regard to certain matters the States will come in, I think the more appropriate thing would be that these matters should be settled in future by the Federal Government, of which the States will also be units.

Chairman: I should think probably that we should be all agreed that in a perfect form of State the railways would be a Federal subject. As has been pointed out, that is the universal practice in all Federated States. But you must remember this—that we are now setting up a Federal State into which various people must come; and as far as I am concerned I want to see that the rights of everybody are protected, and that can be done by a little discussion and mutual goodwill. The Princes have certain rights. The Federal Government ought to have certain rights so as to make one uniform system. Again, it is most important that the question of labour should be properly considered. May I say one thing with regard to that, which I hope will meet with your consent. This Committee has naturally had to be restricted to a few members, but every now and then we do get subjects where the views of some other member of the Conference might be very valuable, and in that case I think it would be helpful if we asked such a gentleman to give us his views—not as a member of this Committee at all. For instance, on this question of labour, personally I should very much like to have heard Mr. Joshi's views. It may be that as time goes on we could call here gentlemen, not to take part in our proceedings but as sort of expert witnesses, to give us their views—just as we asked the Jam Sahib to come to-day.

It looks to me therefore that the position is this—that railways ought to be a Federal subject, but the proper protection must be given to all parties concerned. And you must remember this also: we are to some extent here making bargains. We are making bargains with Your Highnesses in order to come in. It looks to me therefore that we should all agree that, if possible, railways should be a Federal subject. I think we ought to put them down in our tentative list, but it will be necessary, Your Highnesses, very carefully to make financial adjustments, and those financial adjustments are matters for negotiation and agreement.

Sir Akbar Hydari: In this question the Indian States have come to ask for their proper place in regard to the matter of railways. The matter has one other aspect. From the idealist point of view of Mr. Sastri even, I should say that it is necessary that the different Federating units should have the option of forcing the pace with regard to railway development in their own areas, if they can afford to do so. If the whole subject were a Federal subject—if we were completely federalised—then I take it that it would be the Federal body which would determine as to what lines should be laid and

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in which part of the country; and they would have more or less regard to their federal resources and their needs in determining such lines. I am speaking now for the Indian States, but also without having any mandate or commission on behalf of the Provinces I can quote one or two instances from Madras, where a particular Province might like to have a particular line going through particular places which, in their opinion, for their own particular development, should come up much earlier in the railway programme than would be the case if it were left purely to the decision of the Federal Government For that reason I say it would be desirable to retain the discretion of the different Federating units with regard to the construction of railways

How I envisage the whole problem is this There would be certain lines which the Federal Government would like to construct—

Chairman You are thinking of the difference between the through traffic and the local traffic

Sir Akbar Hydari And perhaps a particular local traffic may have a great effect on the through traffic In the cotton districts the Federal Government might like a particular line as a feeder All I *am saying is that it should be open to any of the Federating* units, from their own resources, to have any line they like As to whether that particular line should be allowed with reference to the competing interests of neighbouring lines, that would be a matter for the Federal Government to decide But it cannot be made wholly federal, and you would be encouraging much more development of railway communication if you allow this latitude to the federating units

Chairman: Have I got this down right as a note—any unit to be allowed to construct its own local lines at its own expense, subject to their being non-competitive with Federal lines

Sir Akbar Hydari. Yes. It is possible that one particular federating unit may have, in the past, spent a lot of money on a particular class of development, and now has got money to do it in this case; and it should not be kept back

With regard to administration. We have about 1,400 miles of railway, and we have laid down a policy as to how the surplus profits should be divided, which is very much in accordance with the policy which has been laid down by the Acworth Commission. I have not with me the notification issued, but we definitely said that the amount which we are paying on interest for the purchase and for the construction of the line shall be paid back to the taxpayer, on whose credit the loans were raised.

The surplus profits have to be considered with reference to three interests. There is the interest of general railway development—that is, the general taxpayer, really speaking, the ryot. Then there is the interest of labour, that is, the employee. Thirdly, there are the amenities to the public. Things of that kind might be laid down by the Federal Government, but you will really be putting

a setback to railway development and administration if you try to take away the initiative from the Federated units in these matters in which initiative is really desirable, and in which that initiative does not conflict with general Federal purposes.

Chairman: Is your fixed capital irredeemable? I thought you were talking about a sinking fund to pay back capital just now.

Sir Akbar Hydari: The Indian States who have got these railways have not got merely at heart the interests of the general taxpayer. They behave just like the Government of India itself behaves, in seeing that the surplus profits are made the best use of in the interests of those who are entitled to them. We have now a programme for increasing the pay of the subordinates and for giving them better housing which will mean an expenditure of lakhs of rupees.

In this matter, as well as in all other matters, if any State wants particular powers of initiative allowed to them, there is the correlative idea which should be also borne in mind, namely, that we are allowing the same power of initiative to British India through their Provinces. You must remember, for instance, that a State like Hyderabad has a population larger than that of any of the Dominions of the Empire.

Chairman: It is 12 million, is it not?

Sir Akbar Hydari: It is now 14 million, and that excludes several areas. Really, these areas are so big, and the Provinces are so big, that the widest amount of discretion should be given to them to develop their own lines at all points and in all directions. Let the Federal Government be seized of only those points and only those matters in which uniformity is desirable, necessary and essential.

Chairman: I have asked Mr. Joshi, who is in a neighbouring room, to come here and sit with us. I will tell him what we are doing. Mr. Joshi, we are now discussing the question of railways. Unfortunately we cannot have everybody we wanted to have upon this Committee, because it would make it so large, but the committee has been most anxious that when any question arises on which any other gentleman of the Conference is an expert, we should ask him to come here and give us the benefit of his help. We are now upon the question of whether railways should be part of the Federal scheme, and several speakers have raised the question —quite rightly—of the condition of the working men on the railways. If you would sit here during the discussion and help us with your views it would be of great assistance.

Lord Lothian: I thought perhaps I might contribute a little to the discussion from experience, as I happened to be on railways in South Africa before the Federation, and saw the federation through.

It is quite clear from experience that it is not necessary to a federation that the railways should be nationalised. There are no

national railways in the United States of America at all. In Canada there are two main railway systems, the C.P.R., which is privately owned, and the C.N.R., which is a national railway. In South Africa the railways were owned by the four federating colonies, and were united at the time of federation. I am not quite familiar with the Australian system, but I think the railways are still owned by the several States, and not by the Federal Government. In Germany, before the war, there were some State railways, which were owned by different States, the Bavarian railways and the Prussian railways. To-day they are entirely in the control of a statutory company, and are not run by the Government at all. I think the general tendency is that it is not necessary in a federation that the railways should be owned or run by the State, though the tendency is in that direction. What is essential is, as in the United States, that you should have a thing like the inter-State Commerce Commission, which increasingly prescribes the alignment of railways, where railways have to get licences as to where they should run, so that you do not get overlapping and conflicting rates, and generally trying to get uniformity in standards, and equally that you should get similar legislation dealing with labour conditions, but that otherwise there is a good deal of advantage in allowing a certain fluidity, as Sir Akbar Hydari says, in allowing initiative either to provinces or to private companies. There are situations in which the central authority may not wish to build a railway, or may not have the finances, but in which a province, for reasons of its own, wishes to develop a railway for some local reason, where it would contribute to the general service, and provided it does not conflict it is licensed to do so; and in the same way with private companies which want to develop a mineral area. I think in all these countries you have private railways, provincial railways and federal railways. The one thing that matters is the prescription by the federal authorities of certain uniform conditions dealing with alignment and preventing reduplication, and as regards certain conditions about labour, and so on.

Mr. Gavin Jones: I should like to give the opinion of our community on this question of railways, because I think we look upon the matter from an entirely all-Indian point of view, and I think I may say that we are interested in the trade of India as a whole. We really are not interested as to who owns the railways, and I quite agree with what Sir Akbar Hydari said in that I do not see any harm in the States continuing to own their railways provided that there is some measure of control from the Federal Government. They must be controlled as regards policy of construction, and what I feel is, that in order to adhere to the principle which I stated the other day, that trade and intercourse between the federated States, whether by means of land carriage or coastal navigation, shall be absolutely free, this seems necessarily to be so. To carry out that principle, which I think you will all agree is a sound one for any federation, we must have the administration, and to some extent management, under one control in the Federal State; and

feel that the difficulties of the Indian States and of the railways which they own might be got over to some extent by their being represented on the railway board.

Sardar Ujjal Singh : It has been considered, even by Their Highnesses, that the railway policy should be a federal subject and should be controlled by central authority. Railway policy, I believe, should include uniformity of rates, fares and freights, not only on all the railways that connect the States and British India, but even on those isolated railways within the States that do not connect the States with British India.

H.H. The Maharaja of Bikaner: Could that point be made a bit more clear, Sir? I did not quite grasp it.

Sardar Ujjal Singh : There are railways in the States which connect with British India, and there are certain railways which are isolated branch lines, and which do not directly connect with the main lines. I believe—I am not sure—that there is a limit fixed, both a maximum and a minimum

H.H. The Maharaja of Bikaner: Maxima and minima rates prescribed by the Railway Board.

Sardar Ujjal Singh : A prescribed limit within which fares are fixed; and I think that system ought to continue.

H.H. The Maharaja of Bikaner : That is the case in all railways so far as I know.

Sardar Ujjal Singh : So that not only for all the railways within the limits of the State, those isolated railways, but for all railways the uniformity of rates, within certain limits ought to be prescribed.

Colonel Haksar : Even as regards what are called interior railways.

Sardar Ujjal Singh : The standardisation of railway material and of rolling stock ought to be governed by the Federal authority, and in the way of construction of railways too, the Federal authority should have the previous say in the matter, and also the Federal authority should have the supervising power over the construction of any State railways or any extension.

H.H. The Maharaja of Bikaner: The Government of India inspectors, on behalf of the Railway Board, come and inspect every State railway before it is permitted to be opened.

Sardar Ujjal Singh : Exactly; and during the course of construction, too, the Federal authority should continue to inspect and supervise. If these main principles are agreed to, then another question arises—that to carry out that policy there ought to be a certain amount of control by the Federal authority over these matters. I can quite see the distinction between internal management and patronage, and the control which the Federal authorities should exercise over the State railways for carrying out those policies; and if that control is guaranteed and agreed to, I do not think there will be any great difference of opinion. I can quite

manage their railways more economically and efficiently, being smaller units.

On the financial side, I am not quite sure whether it would be advisable to pool the resources The States are making profits, and I do not know whether it would be to the benefit of the federation to guarantee them that amount of profits and pool the resources, but even if that were to be done a Committee would have to be appointed to go into the whole affair. Personally, I do not think that it would be to the great benefit of the whole of India

A point was raised yesterday by His Highness the Nawab of Bhopal that certain company railways had been taken over by the Government of India lately, and that parts of those railways which passed through State territories should be given over to the States.

With regard to that point, I only want to say that the companies were guaranteed a certain rate of interest on the capital investments. In the beginning, those companies suffered losses, and the Indian taxpayer had to make up those losses, and an estimate has been framed, though not quite accurately, that the accumulated *losses amount to about fifty million pounds, and that fifty million* pounds has been borne by the Indian taxpayer

Diwan Bahadur Mudaliyar British Indian

Sardar Ujjal Singh · Yes, I mean the British Indian taxpayer. That is one point that has got to be considered, and another thing is that, for the construction of those railways, the Government of India supplied a lot of money, and on the security of the British Indian revenue the capital was raised, and it was only the management which was entrusted to certain companies for a certain number of years and on certain terms, and on the expiration of that period, it was quite open to the Indian Government to take over charge of the management The States, from the very beginning, gave certain concessions with regard to land and jurisdiction as they would have given them to the Indian Government if they had directly managed those railways, and on the termination of the term the Government of India resumed control from the companies, so that these two points are to be borne in mind with regard to the question that His Highness the Nawab of Bhopal raised

Sir C. P. Ramaswami Aiyar. Arising out of what fell from Sir Akbar Hydari, I should like to have one or two doubts resolved. He spoke—and if I may say so, rightly spoke—of the importance [illegible] the matter of railways. I should [illegible] one point. Take, for instance, [illegible] ses through Hyderabad. That [illegible] he contemplate anything other than unified administration and unified control throughout that line, which may be described as a trunk line, or does he look for-

feel that the difficulties of the Indian States and of the railways which they own might be got over to some extent by their being represented on the railway board.

Sardar Ujjal Singh: It has been considered, even by Their Highnesses, that the railway policy should be a federal subject and should be controlled by central authority. Railway policy, I believe, should include uniformity of rates, fares and freights, not only on all the railways that connect the States and British India, but even on those isolated railways within the States that do not connect the States with British India.

H.H. The Maharaja of Bikaner: Could that point be made a bit more clear, Sir? I did not quite grasp it.

Sardar Ujjal Singh: There are railways in the States which connect with British India, and there are certain railways which are isolated branch lines, and which do not directly connect with the main lines. I believe—I am not sure—that there is a limit fixed, both a maximum and a minimum

H.H. The Maharaja of Bikaner: Maxima and minima rates prescribed by the Railway Board.

Sardar Ujjal Singh: A prescribed limit within which fares are fixed; and I think that system ought to continue.

H.H. The Maharaja of Bikaner: That is the case in all railways so far as I know.

Sardar Ujjal Singh: So that not only for all the railways within the limits of the State, those isolated railways, but for all railways the uniformity of rates, within certain limits ought to be prescribed.

Colonel Haksar: Even as regards what are called interior railways.

Sardar Ujjal Singh: The standardisation of railway material and of rolling stock ought to be governed by the Federal authority, and in the way of construction of railways too, the Federal authority should have the previous say in the matter, and also the Federal authority should have the supervising power over the construction of any State railways or any extension.

H.H. The Maharaja of Bikaner: The Government of India inspectors, on behalf of the Railway Board, come and inspect every State railway before it is permitted to be opened.

Sardar Ujjal Singh: Exactly; and during the course of construction, too, the Federal authority should continue to inspect and supervise. If these main principles are agreed to, then another question arises—that to carry out that policy there ought to be a certain amount of control by the Federal authority over these matters. I can quite see the distinction between internal management and patronage, and the control which the Federal authorities should exercise over the State railways for carrying out those policies; and if that control is guaranteed and agreed to, I do not think there will be any great difference of opinion. I can quite

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smaller units.

On the financial side, I am not quite sure whether it would be advisable to pool the resources The States are making profits, and I do not know whether it would be to the benefit of the federation to guarantee them that amount of profits and pool the resources, but even if that were to be done a Committee would have to be appointed to go into the whole affair. Personally, I do not think that it would be to the great benefit of the whole of India.

A point was raised yesterday by His Highness the Nawab of Bhopal that certain company railways had been taken over by the Government of India lately, and that parts of those railways which passed through State territories should be given over to the States.

With regard to that point, I only want to say that the companies were guaranteed a certain rate of interest on the capital investments. In the beginning, those companies suffered losses, and the Indian taxpayer had to make up those losses, and an estimate has been framed, though not quite accurately, that the accumulated losses amount to about fifty million pounds, and that fifty million pounds has been borne by the Indian taxpayer

Diwan Bahadur Mudaliyar British Indian

Sardar Ujjal Singh Yes, I mean the British Indian taxpayer That is one point that has got to be considered, and another thing is that, for the construction of those railways, the Government of India supplied a lot of money, and on the security of the British Indian revenue the capital was raised, and it was only the management which was entrusted to certain companies for a certain number of years and on certain terms, and on the expiration of that period, it was quite open to the Indian Government to take over charge of the management The States, from the very beginning, gave certain concessions with regard to land and jurisdiction as they would have given them to the Indian Government if they had directly managed those railways, and on the termination of the term the Government of India resumed control from the companies, so that these two points are to be borne in mind with regard to the question that His Highness the Nawab of Bhopal raised.

Sir C. P. Ramaswami Aiyar Arising out of what fell from Sir Akbar Hydari, I should like to have one or two doubts resolved. He spoke—and if I may say so, rightly spoke—of the importance of stimulating local enterprise in the matter of railways I should like, however, to be enlightened on one point. Take, for instance, the Madras-Delhi line which passes through Hyderabad. That presumably will be Federal Does he contemplate anything other than unified administration and unified control throughout that line, which may be described as a trunk line, or does he look for-

ward to what may be called a provincial control up to the limits of the Madras Presidency, Hyderabad control during the progress of the line through Hyderabad, central provincial control thereafter to the United Provinces, and Punjab control thereafter?

Diwan Bahadur Mudaliyar : And the States in between?

Sir C. P. Ramaswami Aiyar : And also the various States in between. With regard to what have been called provincial lines, in a great country like India it would be of the highest possible embarrassment were we to establish any other system than unified administration and unified control. True, that in addition you would have local lines, and I am particularly aware of the interests which Sir Akbar Hydari had in mind, certain lines in specific Provinces which, for purposes of their own—which might not find favour with the central railway authority—might like to develop a particular area. There, a certain amount of local enterprise and local initiative may be allowed for, and provision might be made for that purpose. But the other point has to be taken in mind.

Then, arising out of the Marquess of Lothian's remarks, it is true that, as pointed out by him, in other countries railways have not always been unified or federal, but I remember having read a great deal about the freight war between the various State railways and the complications that arose, both in the United States of America and in fact, even in Canada, and which led, not only to law suits but to intervention by the supreme governmental authority in regard to those freight wars. Are those things to be contemplated with equanimity, or would it not be better that the great trunk lines should be subject to a uniform control?

Mr. Jinnah : As I have followed the discussion, there does not seem to be any difference of opinion with regard to the policy and the legislation. The only question that is troubling us is the question of the administration or the control in the management of the railways, and, arising out of that, the financial adjustment. Before I deal with that, may I point out to Lord Lothian that, while he is strictly and logically sound in laying down the proposition that nationalisation of railways is not essential for federation, I would like him to go through the report of the Acworth Committee. In India we had our special conditions to deal with, and after a great deal of controversy and debate in public, in the newspapers and so on, we have now finally decided our policy—that we must have State-managed railways, and under every contract that falls in, that company has got to hand over the railways to the State. Having pursued that policy, and having got State railways at the present moment existing—the bulk of them are State railways, and the few that remain must necessarily be taken over at the end of their period of contract—therefore, so far as British India is concerned, it is definitely now committed—beyond redemption, if I may say so—and the State-owned railways must continue in British India. That being so, some Government Department must manage

them, and under whose control will that Department manage it? If we are thinking of an all-India Federation, then that must come under the Federal Government—where else would you put it—and if that is to come under the Federal Government, then the next question arises: What is to happen to the railways in the Indian States? Are they to remain separate under the control and the management and the administration of the individual States?

Colonel Haksar: Why not?

Mr. Jinnah: Why not? That is the question you have got to answer after you have heard everything. That is what we are discussing now. I think only a moment ago Sir C. P. Ramaswami Aiyar pointed out what will be the position; is one portion to be managed by the Central Provinces, another portion by Hyderabad, another portion by the United Provinces, and so on, to Bombay—different managements, different control, different authorities, the railway running right through? Is that what you want, as was pointed out by Sir C. P. Ramaswami Aiyar, and it requires an answer.

Mr. Gavin Jones: But management and administration are different from ownership.

Mr. Jinnah: Quite. Therefore, so far as the question of management or the administration is concerned, it must necessarily remain with the Central Authority.

Mr. Gavin Jones: Yes, I agree.

Mr. Jinnah: Not with the individual units. Very well. Then comes the question of ownership. Now that you talk of ownership, I know that in India there is a certain section that holds the view that the company-managed railways should be encouraged. Well, that again will be a question for your Federal Government. It does not prevent the Federal Government, if they wish to accept a proposal from any sound company that wants to start a line as an enterprise, from accepting it, but so far as the States are concerned, they are not company-managed railways, they are railways owned by the Indian States, and they are in exactly the same position as British India—exactly. You have your railways which you have constructed out of the revenue of your people, and they belong to your States. So do our railways belong to us. Now, what is the difficulty in arriving at an adjustment? As Sir B. N. Mitra pointed out, no doubt difficult questions will arise. I am not minimising that at all—a financial adjustment and so on and so forth; and that, of course, is a point which I am not going to discuss now, and as a matter of fact, I am not really competent to discuss that point.

Having said that, may I say one word more and I have done, and it is this: I would like His Highness the Maharaja of Bikaner to look at the question from this point of view. Now under the present conditions that prevail in India there are various matters which have been adjusted on the footing that the Indian States are sovereign States, and they are sovereign States; and therefore,

whatever arrangements are made between the Indian States individually or collectively and British India, those are arrangements made on the footing of the present prevailing conditions. And what are the present prevailing conditions? The present prevailing conditions are that in British India we have a system of Government that is responsible to Parliament and to the Crown, and therefore I would like Their Highnesses to dismiss from their minds that that system is a system which is going to continue. Here we are contemplating a different system of Government altogether—a system of Government where Their Highnesses will come under the legislature of the Government of the country. And therefore in future, if this Constitution is in force, you will be there as much as the representatives of British India, and no decision, no legislation can be undertaken unless it has the support of your group also. Therefore, whatever you will do in future, it will not be somebody that will be doing it for you, but you will be doing it yourselves as partners in that Federal Government, and therefore when His Highness talks about the question of jurisdiction and the prosecuting authority and matters of railway companies, and so on, if you have your Federal legislature and if you have your Federal Government, then any measure that you pass, or any act or statute that can be passed, can be passed by you along with us, and by us along with you. Therefore all those complicated questions of jurisdiction and all those questions as to who should be the prosecuting authority, will disappear, because in that statute you will lay down the provisions—in the statute you will lay down, who will be the prosecuting authority—in the statute you will lay down what will be a forum that will try the companies. Therefore I would like to impress upon you, not the fact of what is, but of what is going to be; and what is going to be is that you have your share, your voice, and whatever may be done can only be done by you and us together in the future constitution.

Mr. Joshi: I am very much obliged to you My Lord Chancellor, for giving me this opportunity. So far as labour is concerned, I feel that all labour legislation, and the administration of that legislation, should be in the hands of the Federal Government or the Central Government. I cannot conceive how we can separate railway labour from other labour. It is quite true that Railways are not necessarily competitive but they are to the extent to which there are alternative routes. Moreover, it is quite possible, if railways are in the hands of different States and Provinces, that there may be a freight war—not necessarily for the earnings of the railways, but for the encouragement or discouragement of other industries. That will also affect the labour conditions. Therefore I feel that, so far as labour questions are concerned, we cannot distinguish between railway labour and other labour. A railway factory must be controlled by the common factory law. There cannot be a separate law for railway factories and for other industries. The factory law in our judgment, must be a common law for the whole country, and the same law must apply to railways. Similar-

ly if we have a Health Insurance Act, it must cover railway labour; it must be a common Act. That must be the case also with regard to other labour legislation. With regard to hours of work there must be common legislation both for railway and other labour.

So far as international matters go, I think it will be agreed that they must remain with the Central Government Already certain railway subjects are considered internationally from the labour point of view—for instance, the question of automatic couplings.

To this extent the power of controlling labour matters must be with the Central or Federal Government. If the power lies with the Provinces or States there cannot be an international agreement as to automatic couplings. There are international conventions which apply to railway labour as to other labour, but this convention as regards automatic couplings is a special convention affecting railway labour. From the point of view of general labour legislation and from the point of view of international legislation, we feel that all matters affecting railway labour must be in the hands of the Central Government

It is quite true that to-day the administration of labour legislation is in the hands of the Provincial Governments, but that is practicable to-day because the Provincial Governments are controlled in that matter by the Central Government, but hereafter the various parts of the Federation, such as the States, would be controlled by the Central Government as regards labour matters The administration of labour matters will have to be kept in the hands of the Federal Government, otherwise the Federal Government may pass legislation which will not be given effect to by the Provincial Governments To-day it can be done, because the Central Government has power of control over the Provincial Governments

From all these points of view we feel that all matters concerning railway labour should be in the hands of the Federal or Central Government—both legislation and the administration of that legislation.

Chairman. We are very much obliged to you, Mr Joshi You are quite right in what you say. I have before me the list of [illegible] "Industrial matters, [illegible] ctories"—that is your [illegible] electricity, (*d*) boilers, (*e*) gas, (*f*) smoke nuisances, (*g*) welfare of labour including provident funds, industrial insurance (general health and accidents) and housing." I do not want to cross-examine you, or to give any final opinion, but is it at the back of your head that all these things in No 26 ought to be removed from the Provincial to the Federal Government—all of them?

Mr. Joshi: Unless the Central or Federal Government is going to have a general power of control and supervision over the Provincial Governments or the States

Chairman: I am coming to that point later on.

Sir Muhammad Shafi: Several views have been expressed with regard to the policy of the legislation and administration of railways in India. I have been saying to myself all the time, is there no *via media* upon which all of us can come to a unanimous agreement? It occurs to me that there is a *via media*, and one which British India and the Indian States may well agree to.

I entirely agree that in the case of main lines or trunk railways, with powers of running through various parts of British India and sometimes through several States, running right across the length and breadth of India it would be impossible to think of dividing administration. In the case of these main lines the administration should be in the hands of the Federal Government. We are all agreed that railway policy and railway legislation should be a Federal subject.

Coming to the branch lines, lines which have been built by Indian States at their own expense and within the limits of their own territories it seems to me that the precedent of the telephones—that is to say, trunk telephones to be Federal and telephones within the limits of the individual territories to be State telephones—might be adopted. The administration and control of these branch lines, provided that they are within the limits of the territory of Indian States might well be left to those States.

Sir Tej Bahadur Sapru: Pursuing the line of argument adopted by Lord Lothian, I would only like to make very few observations. As we are discussing the question of railways in relation to a Federal form of Government, I consider it necessary to invite your attention to the constitution of the Commonwealth of Australia, which was described by Sir M. Shafi as a model democratic Constitution. Let us see what it provides. Section 51 says "The Parliament shall, subject to this constitution, have power to make laws for the peace, order and good government of the Commonwealth with respect to the control of railways, with respect to transport for the Naval and Military purposes of the Commonwealth" (I imagine Their Highnesses will not have any objection to that); "the acquisition, with the consent of the State, of any railways of the State on terms to be arranged between the Commonwealth and the State." I do not think Their Highnesses can possibly have any objection to that. Now, coming back to the less democratic constitution of British North America, the Act of 1869, in Section 91 you will not find any reference to railways at all.

It will be noticed that the last two clauses make it permissible for the Federal Government to do certain things, but with the consent of the States in every case.

H.H. The Maharaja of Bikaner: What clause is that?

Chairman: It is clause 23 of No. 51

Sir Muhammad Shafi: It is dependent upon the consent of the State. The Federal Government of itself has no power to deal with these matters without the consent of the State.

Sir Tej Bahadur Sapru: That shows to my mind that it is not of the essence of a Federation that the ownership of the State Railways should also belong to the Federal Government. I have looked into the various constitutions during the last 24 hours, and if I may respectfully say so, the statement of Lord Lothian is absolutely correct on this particular point. Even in Germany you will *find the same thing.* The question of nationalisation is entirely different from the question of federation. A Federal Government may either nationalise railways or may allow privately managed railways I therefore think that these two questions of nationalisation and federation should be kept apart It is a question of policy.

Mr. Jayakar: I am looking at the matter from the point of view of the business man to which my friend Mr. Gavin Jones referred. I suppose it is agreed that the Federal Government is interested, at least on the trunk lines, in maintaining a very high standard of efficient service. I am looking forward to a period of very brisk business in course of time, when we have self-government. It is agreed that the trunk lines at any rate must be maintained at a level of high efficiency. I want to understand how it will not lead to a certain unification of finances in that case Supposing there is a [illegible] which the trunk line runs, and [illegible] into an inefficient state of servi[illegible] the Federal Government to maintain that branch of the trunk line in an efficient way for the purposes of business? Supposing that State has no money. Supposing certain inventions are made in order to avoid accidents, such as automatic couplings, and the Federal Government thinks it necessary that all the carriages should be fitted with that particular invention. Supposing the State through which the line runs has not the necessary money what is the Federal Government to do? A certain unification of finances may be necessary, as soon as you agree that it is the Federal Government's business to see that the whole of the trunk line is kept up efficiently

Sir Muhammad Shafi · A loan could be advanced to the State in order to make their portion of the line equally efficient

Mr. Jayakar: Sir M Shafi points out that the Federal Government may lend money, but *ex hypothesi* it is an impoverished State; it has no security to offer. It has no money to invest in making the line efficient or in fitting these costly inventions I want to know what solution Their Highnesses offer in order that the Federal Government may keep the trunk lines in a very high state of efficiency.

Colonel Haksar Are you referring to future or existing lines, Mr. Jayakar?

Mr. Jayakar: I am speaking of future lines

Colonel Haksar: Not existing lines, because there is no part of any trunk line in existence to-day in India ———

A Member · Pardon me, the Nizam owns part of the line between Madras and Delhi, and it is managed by the Nizam

Mr. Gavin Jones: Mr. Jayakar has referred to our community. We are of course very interested in the fact that the railway lines should be efficient. That is why we want centralisation of administration. What we want to get is Federation, and I think, as Sir Tej Sapru has pointed out, we are rather getting off the point when we argue about the question of State ownership or private ownership or different States' ownership. That is a matter we had better leave out for the present. There are many arguments both in favour of and against State ownership. In many cases company management has proved a good deal more efficient. That is a question we should not go into here. As far as possible we should come into line with the desire of the Indian States, who want to continue to own their railways. From the point of view of Federation, I see no objection whatever to their continuing to own the railways, just as different companies now continue to some extent to own their railways in India. Therefore I would like the discussion to concentrate on the question of administration and policy.

H.H. The Maharaja of Bikaner: Certain details have been mentioned upon which I do not propose to touch, because they are not the main points at issue to-day. As I followed the debates, I could not help feeling that a good deal of what has been said is due to a confusion of thought, if I may respectfully say so, and largely due to the speakers not really being acquainted with the system which at present prevails as regards control, and certain essential principles which are in the hands of the Railway Board, and which the States have never objected to. I also think that whilst several of my friends have travelled through our territories, either on British Indian-owned lines or company-owned lines, they have not got an acquaintance with the inner working and conditions in the bigger States who own big systems of railways. I claim to know something more than mere broad details of railway working, since we and Jodhpur were the pioneers among the States in the construction of quite large systems of railways; and it has been a matter in which not only my Government, but I also personally have been very keenly interested.

There were three heads defined by Sir M. Shafi—policy, legislation and administration. In addition to those there is the political aspect in so far as it affects the sovereignty of the States. In a consideration of these questions I submit that whilst we cannot altogether exclude the idealistic point of view we have also to look at them from the practical point of view, and we have to pay regard to the special conditions of the States and, when we are settling the details of Federation, to realise that certain areas at least will require special settlement in view of the special position of the States. If my friends who have taken part in the discussion of the last two days had been associated with me in the very thorough work which was done when we considered railway policy in the Princes' Standing Committee and later in the Chamber, they would have seen that many of the things which have been discussed

to-day have already been provided for and readjusted There has always been control in regard to such essential matters as protection of life and property, efficient working and so on, in regard to railways owned by the Indian States. As an example, we have heard a good deal about rates, but I will again read what I read yesterday at your suggestion, Sir, clause 8 (2) "Railways built by Indian States will be subject to the maxima and minima rates and fares prescribed by the Railway Department of the Government of India for the time being in force on Indian State Railways generally." If they will look through the resolution of the Government of India they will see that there are all kinds of things *partly touched on, and with reference to a speech made to-day, in* regard to every railway constructed by a State we have to send detailed specifications, designs and plans, even of girders to be built over small streams and big rivers. Every year the Government of India Inspector comes round and inspects every inch of our railways. The Railway Board lays down rules which we accept and comply with. In addition, all railways, including those of the States, send their managers and other officers to the annual Railway Conference held in Simla, where all railway policy and details, including technical details, couplings and that sort of thing, are carefully discussed, as no one knows better than Sir Tej Sapru, or Sir B N. Mitra or Sir M Shafi

Let me take now the three main heads, leaving for the moment the political question I will take administration, and show you that it is not on political grounds or from political fears, as Mr Jinnah seemed to think, that we are demurring to our railways being taken up by the future Federation It is inevitable that in a big concern, whilst the general good of the whole is kept in view, the special attention paid to the development of the railways of a particular State must not necessarily be lost sight of, but must take a place more in the background than is the case with a State like Hyderabad or my State, which is all the time devoting its energies, attention and resources to its railways and to the development of the States and the country and the people We have already 800 odd miles of railways I cannot give the exact figure because we are going in for a very brisk construction programme Only the other day I got a telegram about the opening of yet another line having been passed by the Government of India Inspector. Therefore I cannot keep pace with the mileage. We have a very extensive programme We have spent far more money than could possibly have been spent under a Federal system on the development of our railways We are in touch with the managers of company-owned or Government-owned lines, because we have many schemes of railway extension Only this year the managers of the British Indian State Railways were tearing their hair because they were told they could not get any more grants I wish to point out that we are not building a railway system merely for our benefit. When we took up one of our extensions, the Punjab Government asked us to go out of our territory and through a portion of their territory. That money has been entirely provided by my State and

my taxpayers, from loans publicly and successfully raised by us. At the request of the Punjab Government we went right out of our territory into the Punjab territory, thus affording the opportunity of opening up the town of Elanabad which had fallen into decay and which will now revive.

I can only speak of my railway. I hope I shall not be considered to be advertising my Government and my State railway. In addition we go right into Hissar in British territory, to some 40, 50 or 60 miles beyond our frontier—I forget the exact distance. We go through other States who cannot afford to pay the heavy expenditure on railways, or have not got the facilities for having their own management. We have just made an agreement with some Phulkian States to go through some Punjab States into British territory, right away as far as Rewari. We are faced with difficulties of finding funds. We similarly go through British and Punjab territory up to Bhatinda. We have an extended system of 300 or 400 miles of railways, which will bring our total mileage to some 1,200 or 1,500 miles. We hope it may be possible for us to go into part of Sind, and open up a very fine old State with great traditions, 16,000 square miles in Jesalmere, which is also now in a state of decay through lack of touch with the outside world in the way of commerce, and so on. That is an example of my railway.

Now, Sir, I submit that if it was a Federal authority which dealt with the whole of the scheme, trunk railways must necessarily claim the first attention, and funds being limited even now, as they must always be, you cannot provide all the funds, my Government cannot provide all the funds we would like to provide, for railway construction, it must follow that the more important and more urgent lines will be first taken up. You will therefore have trunk railways first. Then you will have quasi-trunk railways, and last you will have local railways. I do not know whether that map is up to date, but I would invite attention to my State, and for you to see what railways we have built in my State in the last thirty-two years. I say without fear of contradiction that no Federal system could possibly have developed lines like ours. We have had to stint, we have had to pour money out, and we have built them for the development of our people, and we have helped the trade not only of our own State but the trade and business of other States, and of British India.

Our freedom, therefore, leads us to devote our whole attention and our whole resources, including the floating of public loans for the development of our States and of our railways. In the last ten years, for instance, in addition to a heavy expenditure of some three crores on irrigation, a big canal system in my State—I am speaking without the figures before me, and I do not want to trouble you with it—I believe we have spent three or four crores of rupees on railway construction. You talk of renewals, and you talk of relaying lines, and so on. I feel sure that for replacements you would never have got the money that we have provided, and I

challenge any of you, including the biggest expert, like Sir Bhupendra Mitra, to come and tell us where we have stinted We have provided better third-class; we have provided better compartments, and so on, for the general public, not of our State but of British India. We had to separate the management of our different railways the other day, and we have provided workshops for which you could never have provided money as quickly as we had to do. We had to take a loan for the double purpose of meeting the railway extension and canal construction at the same time.

With regard to labour, on the same lines I would invite attention, in addition, to the very up-to-date workshops which we have laid down I should be very pleased if Mr Joshi could visit us to see the special model village we have built for the men who work in our workshops—two or three thousand men, I believe Our employees are not only given living wages, we have increased their wages. We provide them with games, with clubs, with temples, mosques, and so on, from special funds, and our officers, instead of being *ill-paid and incompetent, compare with and get, I believe, the same* as the officers in the Imperial service So as far as my State is concerned—and I am sure other States, like Hyderabad and Mysore, owning big railways—I do not think we can be accused of milking our railways or of stinting them It is really the other way round, and I repeat that that could never happen if it was federal matter and all the systems had to be taken into consideration.

With reference to Mr. Jinnah's remarks, I would like to say what I have said in public in the Chamber of Princes, as Chancellor, and on other occasions—that if there is one Department of the Government of India to which we are indebted, speaking generally —there may be a dispute on a certain railway about a certain little question, or big question, of rates of extension—the Railway Department and the Railway Board of the Government of India is one from which we have received the greatest assistance, and one with which we are on the best of terms So it is not political considerations, again, that are involved, but it is because we feel that it would be prejudicial to the best interests of our States, and to the individual development of State railways, which will not receive the same attention, that we are opposed to the taking over of our railways. If a State wishes to sell its railway—well, that is a matter of consent, and you can acquire it Patronage is a thing you have got to consider, since the separation of the management of our railways and moving the headquarters of the management to Bikaner, Bikaneris are getting, in an increasing measure, service from the smallest to the highest posts, which they would not have got, and they will not get under a federalisation; and may I point out that long before you, our friends in British India, started Indianisation we have given effect to it, and are giving effect to it, and are getting Indian officers, not necessarily from our State but from other States. We are doing that, and we did it ahead of you.

Sir, we have been talking of the Acworth Committee Report. Might I point out in that connection that the States were never

my taxpayers, from loans publicly and successfully raised by us. At the request of the Punjab Government we went right out of our territory into the Punjab territory, thus affording the opportunity of opening up the town of Elanabad which had fallen into decay and which will now revive.

I can only speak of my railway. I hope I shall not be considered to be advertising my Government and my State railway. In addition we go right into Hissar in British territory, to some 40, 50 or 60 miles beyond our frontier—I forget the exact distance. We go through other States who cannot afford to pay the heavy expenditure on railways, or have not got the facilities for having their own management. We have just made an agreement with some Phulkian States to go through some Punjab States into British territory, right away as far as Rewari. We are faced with difficulties of finding funds. We similarly go through British and Punjab territory up to Bhatinda. We have an extended system of 300 or 400 miles of railways, which will bring our total mileage to some 1,200 or 1,500 miles. We hope it may be possible for us to go into part of Sind, and open up a very fine old State with great traditions, 16,000 square miles in Jesalmere, which is also now in a state of decay through lack of touch with the outside world in the way of commerce, and so on. That is an example of my railway.

Now, Sir, I submit that if it was a Federal authority which dealt with the whole of the scheme, trunk railways must necessarily claim the first attention, and funds being limited even now, as they must always be, you cannot provide all the funds, my Government cannot provide all the funds we would like to provide, for railway construction, it must follow that the more important and more urgent lines will be first taken up. You will therefore have trunk railways first. Then you will have quasi-trunk railways, and last you will have local railways. I do not know whether that map is up to date, but I would invite attention to my State, and for you to see what railways we have built in my State in the last thirty-two years. I say without fear of contradiction that no Federal system could possibly have developed lines like ours. We have had to stint, we have had to pour money out, and we have built them for the development of our people, and we have helped the trade not only of our own State but the trade and business of other States, and of British India.

Our freedom, therefore, leads us to devote our whole attention and our whole resources, including the floating of public loans for the development of our States and of our railways. In the last ten years, for instance, in addition to a heavy expenditure of some three crores on irrigation, a big canal system in my State—I am speaking without the figures before me, and I do not want to trouble you with it—I believe we have spent three or four crores of rupees on railway construction. You talk of renewals, and you talk of relaying lines, and so on. I feel sure that for replacements you would never have got the money that we have provided, and I

challenge any of you, including the biggest expert, like Sir Bhupendra Mitra, to come and tell us where we have stinted. We have provided better third-class; we have provided better compartments, and so on, for the general public, not of our State but of British India. We had to separate the management of our different railways the other day, and we have provided workshops for which you could never have provided money as quickly as we had to do. We had to take a loan for the double purpose of meeting the railway extension and canal construction at the same time.

With regard to labour, on the same lines I would invite attention, in addition, to the very up-to-date workshops which we have laid down. I should be very pleased if Mr. Joshi could visit us to see the special model village we have built for the men who work in our workshops—two or three thousand men, I believe. Our employees are not only given living wages, we have increased their wages. We provide them with games, with clubs, with temples, mosques, and so on, from special funds, and our officers, instead of being ill-paid and incompetent, compare with and get, I believe, the same as the officers in the Imperial service. So as far as my State is concerned—and I am sure other States, like Hyderabad and Mysore, owning big railways—I do not think we can be accused of milking our railways or of stinting them It is really the other way round, and I repeat that that could never happen if it was federal matter and all the systems had to be taken into consideration

With reference to Mr. Jinnah's remarks, I would like to say what I have said in public in the Chamber of Princes, as Chancellor, and on other occasions—that if there is one Department of the Government of India to which we are indebted, speaking generally —there may be a dispute on a certain railway about a certain little question, or big question, of rates of extension—the Railway Department and the Railway Board of the Government of India is one from which we have received the greatest assistance, and one with which we are on the best of terms. So it is not political considerations, again, that are involved, but it is because we feel that it would be prejudicial to the best interests of our States, and to the individual development of State railways, which will not receive the same attention, that we are opposed to the taking over of our railways. If a State wishes to sell its railway—well, that is a matter of consent, and you can acquire it. Patronage is a thing you have got to consider, since the separation of the management of our railways and moving the headquarters of the management to Bikaner. Bikaneris are getting, in an increasing measure, service from the smallest to the highest posts, which they would not have got, and they will not get under a federalisation; and may I point out that long before you, our friends in British India, started Indianisation we have given effect to it, and are giving effect to it, and are getting Indian officers, not necessarily from our State but from other States. We are doing that, and we did it ahead of you.

Sir, we have been talking of the Acworth Committee Report. Might I point out in that connection that the States were never

consulted, and had no voice. We do not agree nor disagree; we had no voice, and we do not feel that there has been any understanding or contract to that effect. We do not want to change the policy of British India if it is good for the whole of Federal India; by all means continue it; but we are not bound by that, anyhow.

Then we have to remember that the policy which you follow may be good, but it cannot necessarily be assumed that the policy already settled by the British Government or the Government of India will necessarily be considered as the best policy when it has to be settled by Federal machinery in which the States could have a voice.

Now, Sir, with reference to the nationalisation of railways, if there is nationalisation of railways I believe it is nationalisation in our States. Hyderabad has just followed that policy, and they have bought their railways from a company. I am talking very ignorantly, not being well up in details, but they have done it. Every bit of my State railway belongs entirely to my State. No one else, including myself personally, has a penny's interest in that railway. I maintain, therefore, that we have got nationalisation in our States far more than the Government of India, or even, with due respect, than I believe you have in England. Whether the policy is right or wrong, anyhow you have to remember one thing, that it is the property of the State, and we cannot agree to its being, so to speak, confiscated, though I am sure that nothing could be further from the intention of anyone than to suggest that. It would be the exploitation of the States if you did this. And really—I say it with all respect—it would mean the spoliation of their territories, the exploitation of the States and their subjects, and I respectfully submit that the States have already suffered quite enough of exploitation, by which British India has benefited in the past.

Mr. Sastri: Really!

H.H. The Maharaja of Bikaner: I am sure when we come to fiscal matters our technical experts and ministers will be able to deal with that—a subject with which I am not so competent to deal. There is a confusion of thought. We do no object to policies being uniform, but we do object to being forced necessarily to adopt, for instance, the Acworth recommendations. They may be very good for you; they may not. For my part, I venture to say, having studied the subject to a certain extent (because we considered the advisability of adopting that very system in my State) that you may have, in the light of experience, to change it later. With us, if we had done that, our railway development would have stopped. We should not have gone on with the construction of our railways and our railway programme, which is very clearly defined, would not have been proceeded with. Moreover we do not merely rest content with having a very efficient system and a very capable manager on a high salary, but we, like, I believe, the Hyderabad State, have started here a competent Board of Direc-

tors. They could have it in India. They have it here. Why? Because they are going to get the best men available, with the best experience, not only of the Indian railways but also of the railways of Great Britain. They have got a Board of Directors,

instance, was responsible long ago for having retained Sir T. Wynne, who was one of the most brilliant and distinguished Presidents of the Railway Board, he is our adviser; he not only advises from here, but he comes out every year and he comes to our Court; and although he is over 70, he comes to inspect our railways and goes round the workshops and our offices, and advises us and our officers. We looked at it, and, as I say, we found that whatever may be all right later on we could not have followed the Acworth Report or the system enunciated in it in our State without stopping railway development, or at least hindering it British India has large resources, and they may be able to pool and go on; but if we had done that, our railway developments could never have been carried on with the small surplus available, or whatever remained of the funds at their disposal Our earnings have fallen from 11 per cent. to about 4 per cent, simply because of the very heavy capital and revenue outlay on development and construction

When we borrowed 2½ crores to meet this expenditure of 6 and 7 crores, one of our securities, which satisfied the people—and we have had loans subscribed not only by the people of my State, not only by the people of other States, some as far down as the South, but we have had people from British India subscribing—was the large guarantee our railways and the funds available offered Nor could we pay off our loan without this resource; we are basing the repayment of our loan on the increased earnings of our railways as a very important part of that loan programme.

Mr. Gavin Jones talked of transit duties. I wish to assure Mr. Gavin Jones that the States do not charge transit duties on railways—goods going by railway—in fact, we have no transit duties, as far as I am aware, in any State. But again I say that there is no reciprocity on that point, so far, at least, as sea customs duty is concerned You practically charge us transit duties on goods coming to us. All our subjects pay double taxation, they pay taxation to British India at the sea ports I do not want to raise that point to-day; that will come later. They also have to pay customs duty to us, and if you ask why we charge customs duties, my reply is, we must exist, we must carry on our government, we must find funds for the nation-building departments.

Jurisdiction is, no doubt, a point that may be settled by us when we are settling the details of the federation.

I have not touched cases where railways pass through States which have given land free, and where they are trunk lines; but

as far as I understood the discussion these issues did not raise any question of the management and ownership being separated. It was rather a question of the States having a voice, and of the money needed, and where it could come from.

There was one question raised by my friend, Mr. Jayakar, which deserves some reply, and that is about the small States. No small State, if it has not got the money, or cannot raise the funds, would ever be in a position to build railways. Where they have not these resources the States have welcomed in the past, and will welcome in the future, construction and even management of railways passing through their territories either by the British Government, as it is at present, or the Federal Government, as it will be in the future, or private companies. May I finally say that all these questions of policy are already being dealt with by the Railway Board, and it is not to the policy generally that we are objecting, but we do want diversity in unity, freedom of action as regards certain things which we rightly or wrongly regard as important. We shall be very glad to change our views when circumstances permit, if it is necessary, even in our railways; but we do want diversity in unity, and freedom to have certain changes, to carry on the management of our railways efficiently, with due regard to the safety of the public and of goods; but here we have more power and more opportunities to go even ahead of British India.

Chairman: We are very much obliged to His Highness for having summed up the case. We have now come to an end of the discussion about railways, and I think there is no doubt that we are all agreed to a very large extent that railways must be a Federal concern. With regard to working out various adjustments of which we have just heard, that will be a matter of detail later on, but with your consent I propose to place railways provisionally upon the Federal list of subjects.

H.H. The Maharaja of Bikaner : Railway Policy?

Chairman : Policy with regard to railways.

Customs.

Chairman : With regard to Customs, may I first of all deal with the Travancore and Cochin case. As I understand that case, it is as follows. These States have sea ports, and the arrangements between them and British India are regulated by a special Convention.

In practice I think the arrangement has been that as regards foreign imports the Customs duty is collected by the British Indian authorities, and the proceeds are divided half and half between British India and the States, the assumption being that approximately half of the dutiable imports are intended for consumption in these States and the other half makes its way into British India. Perhaps Sir Mirza Ismail will tell us how we ought to deal with that in a Federal system.

Sir Mirza Ismail : Perhaps you will allow our Adviser to explain the position

Diwan Bahadur Raghaviah The position is somewhat different from what Your Lordship has stated, and it is not the same as regards Travancore and Cochin The Convention is the same for both the States, but as regards Travancore, she has been prohibited from levying import duties on foreign goods which she consumes, and those import duties are levied mostly at the Port of Cochin, which is a port common to Travancore, British India and Cochin. The bulk of the foreign goods imported and consumed in Travancore comes through that port But a small portion of the imported goods comes also through another port within Travancore territory called Alleppey, and the import duties on the goods imported through that port are levied and collected by the Travancore Government, and are taken by the Travancore Government under certain conditions As regards the import duty levied on goods imported at the Port of Cochin which is not a purely Travancore Port, the understanding is that Travancore shall get a compensation. That compensation was fixed at 40,000 Rs in 1865, with reference to the then quantity and value of goods imported through that port and consumed in Travancore That amount has remained a constant figure, and has not been revised, although the value of the goods imported and consumed in Travancore has gone up nearly thirty fold or 3,000 per cent , and it is the contention of Travancore that the compensation should be raised in propoition to her consumption. This is not all, this compensation of 40,000 Rs. is washed out by another clause in the agreement, under which if the income from the import duty on the direct imports at the Port of Alleppey and a few other Travancore ports which I need not mention, exceeds 13,000 Rs , there is a set off against these 40,000 Rs. As the import duties realised at these other ports exceed 13,000 Rs , Travancore has not been getting any compensation in lieu of the restriction placed on her of not levying any import duty on goods imported through British India.

In regard to Cochin, the arrangement has been that Cochin and British India share half and half the income from the import duties levied at the Port of Cochin That includes also the duty on goods which are imported and consumed in Travancore. That duty of course has been a progressive figure. It has increased from about Rs 3 lakhs ten years ago to about Rs 30 lakhs now. British India and Cochin share that in equal parts But subsequently there was an agreement in 1925 in connection with the Cochin Harbour. The development of Cochin Harbour was taken up, and certain financial arrangements have been agreed to between British India, Travancore and Cochin. As regards the sharing of the import duties, an arrangement was come to under which the income from import duties at the Port of Cochin will be divided in three equal shares between Travancore, Cochin and British India when certain conditions come to exist That agreement has

not yet begun to operate. The income from imports from the other ports of Travancore, like Alleppey, will under this subsequent agreement be pooled along with the income from the Cochin port. These are the latest arrangements in regard to import duties as between Travancore, Cochin and British India.

Chairman : May I ask a question. In a Federation, which we hope will be brought about, your group of States would naturally play a very important part. I observe that your area is 10,696 square miles. Your population is 5,460,000. You have 71 per cent. of Hindus, and Trivandrum has 72,000 people, and naturally would play an important part in any Federation. You have put your points extraordinarily well, if you will permit me saying so to your face, but they are the sort of points which will have to be adjusted. You could quite well come into a Federation with regard to those points, could you not?

Diwan Bahadur Raghaviah : I do not speak under mandate, but I think the States will be quite willing to come into a Federation, and will agree that the policy in regard to tariffs, administration and so on, shall be regulated by the Federal Government, provided the special interests of these States are safeguarded.

Chairman : Certainly. Now we may come to the Kathiawar case.

I understand that some sort of difficulties have arisen. I am not at all expressing an opinion. All I want to say is that we cannot get this matter going unless we have agreement and unless people have their rights. I understand there is some difficulty between your ports and the Port of Bombay. I am very familiar with the history of it. I think I could explain at some length to the Committee, but I do not want to do that. Would you or your Minister like to let us know what you want done.

Rao Bahadur Krishnamachari : I will talk about Baroda, which is on the same footing. There is some little difference between the Baroda ports in Kathiawar and the other Kathiawar ports. The position with regard to Baroda is this: Baroda has got a coast line in Gujerat and another in Kathiawar. At present disputes are pending between the Government of India and the Baroda State with regard to port rights in both zones. The question with regard to the Gujerat coast line is whether the Baroda Government have any right to open ports there. No decision has been reached on that yet. An order has been passed by the Government of India, and the question of further steps being taken by the Baroda Government is being considered. Meanwhile the matter is under negotiation between the two Governments.

As regards Kathiawar ports, there are two engagements between the Government of India and Baroda, one in 1865 and another in 1917. Under both, the obligation imposed on the Baroda Government is that they shall not levy import duties lower than those in British India, an obligation which is fully admitted by the Baroda Government. The dispute is as regards the rights which

the Baroda Government have secured under those two engagements. That dispute still remains unsettled. The question at issue is whether, subject to that obligation, the Baroda ports have the right to develop to their natural capacity. The British Government contends that they have not—that is, that the moment goods imported through those ports come into British territory they have the right to levy Customs duty on them, though Customs duty may have been levied on them in the ports, while the Baroda Government says that according to the engagements referred to the British Government have not got that right.

Chairman: They have to put a sort of cordon across the neck

Rao Bahadur Krishnamachari That is right The cordon is at the entrance to Gujerat.

As regards the obligation there is no difficulty whatever; the Baroda Government have agreed not to levy at their ports import duties lower than those levied at the British Indian ports. As regards the rights, there is a conflict The Baroda Government say that, according to the engagements entered into with them so long as import duties are levied at rates not lower than these levied at British Indian ports they have got the right to develop to their full natural capacity, in other words they can sell their goods in British India and collect and retain the customs duty at their ports That is the right which the Baroda Government claims, and that right is not admitted by the Government of India.

Sir Prabhashankar Pattani The Port of Bhavnagar has been enjoying the fullest benefits of a British port for seventy years, that is to say, by a treaty under which Bhavnagar has for valuable considerations obtained these rights In 1903 Lord Curzon put a Customs barrier against all the ports of Kathiawar, the reason being—and it was a right reason at the time—that all the ports except Bhavnagar were ports which were not bound to put the same tariff on their imports and exports, and therefore it was possible [illegible] h Indian ports which were bo[illegible] I think he first proposed tha[illegible] and allow themselves to be supervised or managed or leased, which naturally the States refused to do Unfortunately, not recognising the special position of Bhavnagar, Lord Curzon tried to apply the Customs restrictions against us also, and we had to fight for our rights for nearly seven years, until, I think, about the time of Lord Morley and Lord Crewe, Bhavnagar secured its rights. You will be able to verify this from the records of the Secretary of State here With the same question was connected that of the minor ports of Bhavnagar, which enjoyed similar rights under the arrangement proposed by Government themselves Bhavnagar was the only State in Kathiawar that entered into the Customs Union 70 years ago and secured "full benefits of a British Port" Now, how did Bhavnagar suffer under that arrangement? Having accepted the British Tariff, we could not but charge high tariffs. While the other ports underbid our trade by lower tariffs The establishment of a customs

[illegible] by Lord Curzon should have afforded Bhavnagar the chance of reaping the benefits of a British Port but we were lumped up with the other States and suffered for about ten years until the decision was given in our favour. Then, in 1917, other States, realising that there was an advantage in coming into a Customs union—as I may call it—came to terms with Government.

Chairman: We quite follow your case, and understand the question you are putting forward. What we are considering now is the category of subjects which might be dealt with by some Federal authority, and we have been going through the list of Central subjects, as you know, during the last day or two, one of which subjects is this question of Customs, No. 11. This Committee and the Conference have no right to settle your rights at all. It would be impertinence on our part to do that. That is a matter for you by such agreement as you like to enter into. All we were thinking was this—and it was borne out by the last word you have just spoken—that there would be no difficulty in having this matter brought within the Federal subjects we are discussing. Would it be possible for you to come in with the administration of the Federal system?

Sir Prabhashankar Pattani: I should like to know what the word "administration" means. You have asked me whether I am willing that the matter of Customs should come in. My reply is influenced by the consideration that Bhavnagar is at present a minority State, and I do not think that any administrator or regent during the minority can write away these rights, a course to which objection might be taken later on.

Chairman: How much longer is there of the minority?

Sir Prabhashankar Pattani: I hope it will be next year. That will not be a very long time, but I trust it will be appreciated that in the absence of a full-fledged ruler it will not be open to any administrator, even to the Government, to bind the State with a lasting arrangement in which the ruler himself has no voice; and that principle the Government themselves have accepted.

Chairman: Perhaps it would not be fair to ask you for your views, apart from any question of minority.

Sir Prabhashankar Pattani: Now I am going to give my personal views. Even if there was a ruler and I was his minister I will tell you now what I would have said under those conditions.

Bhavnagar is already in Customs union with Government. I think the ruler would not mind—I am speaking from memory and from what I think at present—if this subject became Federal. I would not mind the same policy that applies to me today applying to me under Federal Government. Beyond that there should be no restriction of my rights. In that event, if my advice was asked I would say "there is no diminution of your treaty rights; it is only a question of the transference of the policy of tariff from the Government to a Federal body, which the Government themselves institute." On the conditions that I enjoy today, I do not think

that the Bhavnagar State would refuse to agree to the Customs tariff of my State being considered as a Federal Customs policy. It is a question only of tariff. Having accepted that tariff, I do *not mind who decides the tariff, so long as the person or authority* deciding is acceptable to all the States

Chairman · I am most grateful to you. You have made your point very clear to me

Sir Prabhashankar Pattani I insist that my present rights under the treaty, the rights given us as regards our ports, should be preserved as they exist to-day, and under those conditions I do not mind who decides the tariff policy

H.H. The Maharaja of Nawanagar · The Customs Union came into existence in 1917.

The Government of India, after Lord Curzon's policy which was accepted in 1903, made many efforts to ask the Kathiawar States, who are maritime, to join in the Customs Union under certain conditions. The memoranda that were sent to us were not acceptable to the States

I will read out the policy which they chalked out in 1917 If you will allow me I will read out the conditions —

"The conditions referred to are here repeated for convenience:—

(1) That the Darbar shall undertake to levy at all their ports customs duties not lower than those enforced—simultaneously at ports in British India by the Indian Tariff Act, 1894, as subsequently amended, and any other Act prescribing imposts on the import or export of merchandise, *e g*, the Tea Cess Act;

(2) That they shall levy duty at rates not lower than those for the time being in force in British India on cotton goods or other similar excisable articles produced or manufactured within their territories;

(3) That they shall undertake to enforce the tests and regulations which are enforced at British Indian Ports in compliance with the Indian Merchandise Marks Act and similar enactments;

(4) That they shall absolutely prohibit the importation of arms, ammunition and warlike stores as well as of any articles in respect of which a prohibition against import is issued under competent authority;

(5) That the existing arrangements as regards salt, opium, spirits and other excisable articles shall not be disturbed;

(6) That the Darbar shall maintain accurate statistics of the trade passing through their ports and shall place these statistics at the disposal of Government."

Those were the main conditions that were put upon us, but then later on in the same document, this is the proviso they added—they gave us also, I may say, this concession:—

"If these conditions which represent the extreme limit to which the Government of India are prepared to go to meet wishes of the Darbars were accepted, the preventive line might be abolished and the States would then not only receive the privilege of British ports in respect of coasting trade but would be allowed to receive the duty on all articles of foreign origin which are imported into British India from the States by land, and the Government of India would not levy duty on goods which are the produce of or are manufactured in the States when imported into British India across the land frontier."

This gave exactly the same right, as Sir Prabhashankar Pattani has claimed, to Nawanagar.

"This concession, if made, would not be construed as amounting to an abandonment of the undoubted right of the Government of India to levy duty on all goods imported into British India whatever may be the origin of such goods and by whatever route they may be imported. But while the prerogative of the Paramount Power would be upheld, the Governor-General in Council would be prepared to guarantee that such power would not be exercised so long as the States abide loyally by the terms of the proposed agreement."

Then they added, in Clause 4 of the same document:—

"It would also be clearly understood that if, at any time in the future, by the creation of a port capable of accommodating large vessels or otherwise the fiscal interests involved became very important the Government of India would reserve the right to reconsider the position generally."

I saw the danger of that proviso, which might be construed, in case we developed our port and reaped the advantage of it, as debarring us from the right of taking customs and appropriating it as our revenue. So I wrote in my letter in reply:—

"Regarding the 4th para. of the letter under reply, I may be permitted to observe that it is out of question of a Kathiawar State to be in a position to equip and set up a rival port to Bombay or Karachi: but the phrase 'the fiscal interests involved became very important' introduced a vague reservation and I hope our acceptance of the conditions will not interfere with a healthy development of our resources to the extent of their natural capacity."

That is reservation I asked for. The reply to that from Government was in the following words:—

"With reference to para. 3 of Your Highness' letter No. 44, dated the 27th August, 1917, I have the honour to convey the assurance that Government have no intention of imposing

conditions which will interfere with a healthy development of the resources of your State to the extent of its natural capacity."

I got the reply, practically in my own words, telling me that so long as you can develop your port to the extent of its natural capacity you will enjoy the same rights as Government have now given you. It is upon the interpretation of that clause that the whole of our case is based I had the privilege of enjoying that right, therefore, from the year 1917 to the year 1927 undisturbed. In that year, the revenue derived by the Nawanagar State amounted to 75 lakhs, and it was then that the Government of India took the step which led to the Abu Conference.

Now I will not use language which I really feel, because probably it would be unparliamentary, but I do say this—that the Conference was a sham and the action of the Government of India can only be described as one of absolute arbitrary, despotic Government, and the State was deprived of its right without any rhyme or reason and without the proof of a single charge of any kind whatsoever. May I say, without any fear, that the Government of India themselves admitted in the Abu Conference that they had no reason to believe that anything wrong was being done in the Port of Nawanagar, so that for the next three years, that is 1927-8, 1928-9, 1929-30, the Nawanagar States have been wrongfully deprived of 43 lakhs in 1927-8, 72 lakhs in the year 1928-9, approximately 85 lakhs in the year 1929-30 We developed the port at our own capital cost, we maintain the port, we keep it up, we pay all the labour charges, and actually on their plighted word we went on and spent, both with regard to the development of the port and the railway facilities which had to be added, something like 1½ crores of rupees, and to-day we cannot maintain that port with profit. That is exactly the situation to-day

Now, if you will allow my counsel, the gentleman who represented us at the Abu Conference, to put the case even more lucidly before this sub-Committee, I shall be very grateful.

Chairman I am sure that cannot be put more lucidly than you have put it yourself I should rather gather from you that possibly you would not object to a Federal way of doing it.

H.H. The Maharaja of Nawanagar: I have exactly the same argument to use with regard to joining the Federal system. So long as our rights are ascertained first, we shall always help the Federal system as far as possible

Chairman· It is a matter of financial adjustment, really.

H H. The Maharaja of Nawanagar· Of this I am sure, that neither British India nor the State desires to do anything that is wrong.

Chairman The only thing I need say is that, of course, we are not a tribunal to decide that, but I am very much obliged to you, gentlemen, for what you have said with regard to Federation; and if you come to some matter of arbitration or something like that

with regard to your rights, the only thing I should like to say is that I wish you good luck.

Sir Prabhashankar Pattani: Before we finish this, I have to say one sentence only, and it is this. I think I have made my case quite clear in the explanation I had the honour to submit. The one thing I would add is this, that at this time when the cordon or the frontier barrier was re-established, I was unfortunately lumped up again, and the quarantine was intended to be against my rights as well. I had only to bring the matter to the notice of the Government, quoting Lord Crewe's decision and drawing attention to my rights, and also appealing to the very honest way in which we were playing the game, and they at once not only removed the restrictions against my trade, but brought me with them into the policy of putting the land frontier line in conjunction with Government frontier line. I have myself established a frontier line and we are running the whole frontier policy on the lines of the British Government. So that I am, in a way, in perfect union with the Government—you may call it union or federation—which is a new word from our standpoint—but I am to-day absolutely with the Government in their policy of customs union, and I do not think that any State will refuse to consider a new method of deciding policy of government so long as their Treaty rights, which are really admitted by Government, are preserved. Mine is not a case for arbitration. I do not think I have to go anywhere to establish these rights. They have been twice established by Government decisions.

That is all I wanted to explain, because I do not like it to be understood that I am fighting for a right or a case which required to be adjudged. It has already been adjudged twice, and by the highest authorities of Government.

Colonel Haksar: You have been listening to the case of States, which, in consequence of certain facts, desire special treatment in the matter of customs, because they are maritime States. Here is a letter from His Highness the Maharaja of Kashmir, which he has asked me to read out to this sub-Committee:—

"I understand that the Federal Structure sub-Committee is considering the classification of subjects of common concern to British India and the Indian States. As you know, the position of the Kashmir State with regard to Customs and Excise duties is somewhat special and is regulated by the Treaty of 1870 with the British Government. When the question of classification of Customs and Excise comes up before the Committee, I should be grateful if you would kindly point out that, whilst I have no desire to suggest that Customs and Excise should not be treated as Federal subjects, so far as my State is concerned, I should like it to be brought on the proceedings of the Committee that a reservation be made in favour of Kashmir and it be clearly placed on record that I wish to adhere to the Treaty of 1870, irrespective of any decision that may be arrived at in the Committee regarding the classification of these subjects."

Chairman: With regard to maritime customs, I think it is pretty clear that everybody wants those to come under a federal system. We perfectly well note the points which have been raised, and we perfectly well know all about the Treaties That is a matter for adjustment and so on, but speaking broadly on the main question as to whether maritime customs are a federal subject, I think we are all agreed that it is desirable that it should be. You are very anxious that if it is a federal system it should be subject to your rights under the Treaties.

Sir Prabhashankar Pattani The rights under the Treaties are only the right of Government to decide the tariff, there being no interference in jurisdiction To say generally that we shall be only too glad to come into federation, it might be taken as a promise given by us without understanding how it will affect our interests. Therefore I very respectfully submit that when I am putting my case it is only with regard to the policy of customs tariff that we have accepted—the transfer of that policy from Government to the Federal Chamber

With regard to the administration I think—and I think my brothers of the other States will agree with me—that it is a question of the jurisdiction of the States and any interference with the jurisdiction will not only be not helping the Federal Government, but will create a clash with the Federal Government I will mention one example For instance, in the Customs laws of the Government of India the Collector of Bombay has the discretion either to allow transhipment to another port or not. Now that is a matter of policy introduced into that Act, and the great point to be remembered in connection with that is this—that while the Collector of Bombay may refuse transhipment to one of his own other British Indian ports, he has no authority under that Act to prevent transhipment to us, who enjoy the rights of a British port I hope I have made it clear. May I say it again The rights of management of the administration belong to the State, because it is a Sovereign State and it has its own jurisdiction where the ports are situated. [illegible] interference then instead of there [illegible] create friction with the Federal [illegible] on how these things are interpreted in British India The British Indian Collector at a *port has the option, if he so chooses, to prevent or restrict transhipment* to any other British port. There the word British means the British port under the j[illegible] and not Indian State p[illegible] under the jurisdiction of [illegible] ing in my having th[illegible] an administrative officer of British India because of the power under that Act says no goods shall go to Jamnagar. That point was brought to the notice of Government, and they saw that the Collector's authority in that clause was jurisdictional and not appertaining to the Customs tariff policies, and therefore he was debarred from putting that bar against our ports Now this diffi-

culty has arisen because of administrative interference which was sought to be introduced unlawfully by the Officers of the Government. The same will happen with regard to the Federal Officers, although I can see that if the Federal Government is established it will not be "they" and "we," it will be only "we" because we shall also have a voice; but still, it may be made clear that in order that no clashes may arise, there should not be any lumping up of jurisdictional questions, and the policy questions should be considered when we are deciding the policy of the Federal Government. That is all I want to say.

Chairman: I quite appreciate what you say, and of course it is a very weighty observation, but if you will forgive me, I think we must just consider for a moment what is the object of a Federal Government. You have just been touching upon it, and therefore I would like, if you would allow me to do so, just to speak a word or two. You know, it is part of the whole scheme that people who, as it is thought, wisely, will come into a Federation, have to make some surrender of their sovereign rights.

I quite agree that it is a matter for agreement, and I quite see, in fact I should not differ from you, that there are some of your sovereign rights which you could not put into the common pool. That I will not dispute about, but the whole question we are now debating is this—whether this particular portion of your sovereign rights might be surrendered; whether it would be wise, supposing that your rights were ascertained, that this particular portion of your sovereign rights might be entrusted to a Federal Assembly. Would you forgive me? I apologise to the other members of the Committee, as you were not here yesterday, for reading a very short passage on Federalism. (I am sure I shall have your forgiveness, gentlemen). I am quoting from an article in a very authoritative book, the Encyclopædia Britannica: "Federal Government: A form of government of which the essential principle is that there is a union of two or more States under one central body for certain permanent common objects. In the most perfect form of federation the States agree to delegate to a supreme federal government certain powers or functions inherent in themselves in their sovereign or separate capacity, and the federal government, in turn, in the exercise of these specific powers acts directly not only on the communities making up the federation but on each individual citizen. So far as concerns the residue of powers unallotted to the central or federal authority, the States retain unimpaired their individual sovereignty, and the citizens of a federation consequently own a double allegiance, one to the State and one to the federal government."

Now, may I put it rather into more concrete language. Let us assume, for the sake of argument, that there are seven particular acts of jurisdiction which belong to you in your sovereign capacity —A, B, C, D, E, F, G. Now I quite agree with you that it may be in respect of A, B and C the position would be, "We will never surrender those. It does not matter whether you pay us; it does

not matter whether you make us promises; nothing matters; A, and C are bed-rock principles which we will never give up". Bu then comes another question. There comes a question with regar to D, E, F and G. Now, with regard to those there may be tw methods of approach, or three methods of approach I am not going to say my opinion. (1) With regard to D—A, B, C you will never give up—with regard to D, you may have sovereign rights of property, and you may say, "Well I will give those up on condition that you pay me proper compensation". With regard to E, you may say, "Well, that is not a question of property, that is a question of policy I am prepared to come into the federation there on this question of policy, and sit with the other people, and decide what is best for the whole Federation". And the final thing is this. A, B, C—never D—property, fair compensation E—policy.

As far as policy is concerned, for the moment you are not creating an objection I am going to take the last, F—Administration That is the point you were on just now You may say with regard to F—I hope you will not—that, as in the case of A, B and C, never. You may say with regard to F—"Well, having regard to the good of India, the whole common good of India, India to be a sort of world force, I am prepared that F should not stand in the same hard class as A, B and C. I will not say never, but I am prepared to say this, that with regard to F Administration, I will come in subject to appropriate safeguards".

Now, I do not want to cross-examine you, it would be an impertinence for me to cross-examine you, but what I should like you to consider, if you will be good enough, is this Do not make up your minds now; you were quite right in saying that you did not want to make any premature decision But would you just consider, turning it over in your minds, whether with regard to F, which I will put down as these maritime customs, you would be willing to come in with regard to Administration? I recognise your minority point and I am not discussing that, but would you be prepared to come in with due safeguards?

Do not say "No" at present, and do not say "Yes", it is equally bad from your point of view to say "Yes"; but just recollect one thing We are trying to make one great scheme for a great India, and I am sure every one of us wants to go as far as he an So far as the first three points A, B and C, are concerned, will not even ask you to give up your sovereign rights, and I ould be the first to tell you not to do so; but with regard to some f these other matters all I ask you to do is to see whether we cannot me to some arrangement

Sir Prabhashankar Pattani: Much will depend on what is ant by the word "administration." What will be the process ich will be applied under "administration" for the whole seard of India? Unless I know what "administration" will ude, it is very difficult to give an opinion

Sir B. N. Mitra: We are now considering an arrangement under a Federal administration in which the States collectively will have a voice, and an individual State, through its representatives, will be able to see that its difficulties are set right. We are now talking of a Federal administration, and, while I fully sympathise with Sir P. Pattani about the difficulties which may have arisen in the past, yet I submit to him that the possibility of that would disappear under a Federal system of government where he, along with His Highness of Bikaner, the Provinces of British India, and so on, will all be units. I only ask him to consider that aspect before he finally makes up his mind.

Sir P. Pattani: I shall consider that suggestion with a very open mind, and I consider it is a very good suggestion; but I should still like to know how the word "administration" is to be defined, how it will work in practice, and that sort of thing.

Sir B. N. Mitra: That is a matter which will have to be discussed in detail, but broadly speaking I think there would be a Collector of Customs of the Federal administration whose sole function would be to collect the proper amount of revenue. If that man was not collecting the proper amount, according to information which came into the possession of the authorities of your State, through your representatives in the Federal Legislature and through the Federal Executive you would have an opportunity of getting the matter set right, so that it would not be so bad. I simply put the matter before you for your consideration; as the Lord Chancellor has said, he does not want you to commit yourselves immediately.

Coming to the other point which has been referred to, we have been discussing Sea Customs, but allied to Sea Customs there are the Land Customs in regard to articles which pass across the land frontiers of India as a whole. I am not talking about inter-State or inter-Provincial frontiers, but about the land frontiers of India as a whole. That must be classified in the same way as Sea Customs; that is to say, it should be a Federal subject, subject to any financial adjustments which may be necessary, particularly, I believe, in connection with Kashmir. That must be examined in detail.

There is another matter, which does not affect the Indian States, namely the Excise Duty on petroleum. If Burma is separated, so far as Burma is concerned that matter will not play any part at all, because Burma petroleum will be subject to a Customs duty; but in India itself large areas like the Attock fields in the Punjab and the fields the name of which I forget, in Assam produce petroleum, and on that an Excise Duty is levied. The Excise Duty on petroleum, therefore, will also have to be a Federal subject, but that will not affect the Indian States, none of which produces any petroleum.

Chairman: Has anybody anything more to say on this question of Customs?

Diwan Bahadur T. Raghaiah. There is one more point I should like to mention in connection with Customs. There are export duties on articles exported by Travancore, Cochin and so on. So far as Travancore is concerned the duties go to the credit of Travancore entirely. There are Land and Sea Customs there The articles exported by sea from the Port of Alleppey are exported direct by sea and no duty is levied at that Port but the articles exported by land are caught on the frontier and export duty is levied there. All that income, which is enjoyed by Travancore, has been enjoyed without let or hindrance, and amounts to a very considerable sum I take it that safeguards would be provided for that vested right in the financial adjustments which will be made in the future.

Chairman Yes I am very much obliged What we might do, I think, without prejudice entirely, is this I think we are all agreed on this, at any rate; Maritime Customs might go into our Provisional list. It is only a Provisional list and of course we must bear in mind what you say and the various difficulties which exist. It may be found—I do not say it will be found—that they can only go in for certain purposes; I quite follow that But at any rate we will put that down if we may, and I do hope we shall arrive, as I think we shall, at an agreement for all purposes

Inland Customs

Chairman · The next point is Inland Customs Are all the States to be required to refrain in future from levying Customs duties on their own borders? That is the question

H H. The Maharaja of Bikaner My Lord Chancellor, before we go into details I want to put forward two or three rather important considerations as they strike me and as they strike several of us who have been thinking over this question. We have to remember that several States do impose Inland Customs duties within the borders of their States Some States voluntarily do not impose duties. That is where you will possibly get one difficulty; I do not say you will, but I think you will.

Then, in regard to Inland duties, it is a question which in the exercise of their sovereign rights the Indian States and their Governments have settled exactly as it pleased them, naturally having regard to the interests of commerce, of trade and of their subjects, but without the slightest interference, as far as I am aware from my 32 years' experience, from the Paramount Power.

They impose tariffs irrespective of any tariff, sea or otherwise, in British India, and they derive substantial revenues from them which help to carry on their Governments and, as I said in the case of railways, to build up a stronger and more efficient administration, to help the nation-building departments, and so on. I do not know what the revenues are. Some States, like Hyderabad, have specific provision in their treaties with regard to Inland Customs and Sea Customs, and they can speak best on that point, but

we do derive very substantial revenues from this source. I do not know what the Customs revenue of Hyderabad is at present.

Sir Akbr Hydari: Two crores.

H.H. The Maharja of Bikaner: And of Gwalior?

Colonel Haksar: 60 lakhs.

H.H. The Maharaja of Bikaner: We derive 22 lakhs from our Customs. Our general revenue is rapidly rising; it is at present 1·35 crores, and we hope to get it to 2 crores in a few years; 22 lakhs is an important percentage to take out of that. The best English experts have been lent to us by the Government of India to overhaul not only our tariffs but our policy, our laws and regulations, but, as I have said, we have absolute freedom. We cannot be expected to pool our revenues and give them up.

On the other hand—and now I come to a rather important point which has a bearing on the matters which I hope this sub-Committee will deal with, and which I think will have to be dealt with by a sub-sub-Committee dealing with the fiscal aspects of the matter, as I suggested yesterday—when we are talking the whole time of pooling the revenues from the States I do want the point realised which Colonel Haksar made in his very clear and able speech at the first meeting of this sub-Committee. You have to take into account not what we will get from Bikaner or any other State from their present revenue from Customs or railways, but you have to see what the States are already contributing through ceded areas, tributes and in other ways, and by the taxation which, even if it is indirect at present, is already being paid. That is a point which will naturally have to be considered in determining what the Indian States are to contribute towards the common pool, and possibly this question will ultimately have to be dealt with if we are to proceed with the pooling of revenues further.

Coming to the question of the revenues derived by the States from Customs, some years ago we put forward a question in the Chamber of Princes, and several of the States at that time asked for a share of the Maritime Customs collected at the ports of British India. We based that claim on a number of reasons, and I will leave that side of it to our technical experts. We pointed out that our subjects paid double duty. If an article imported from England is worth, say, 100 rupees when it arrives in Bombay on a ship, any subject of Bikaner, whether a merchant or a private individual, who imports that article has first to pay, let us say, 30 per cent.—I believe it is 33 per cent., but that does not matter—at Bombay. Who gets the benefit of that tax, levied on the subject of an Indian State? It is the British Indian subject. You may say that it is the whole of the Crown, and the Paramount Power, and the Government of India who gives protection to the States, and that therefore they are entitled to it. Our reply is that the States have already paid for their protection according to the terms of the Treaties.

The States ask for a share in the maritime customs derived at the ports. The 33 per cent. is devoted for the benefit of the British Indian tax-payer. It is a recognised principle that taxes should be levied and expended for the benefit of the person who pays the taxes.

When an article worth a hundred rupees, and which pays 33 per cent. in Bombay, comes to Bikaner, we charge a customs duty of 7 per cent. Therefore an article imported from England at a cost of a hundred rupees costs my tax-payer 40 per cent., of which 33 per cent. goes to the benefit of the Indian tax-payer.

Therefore one of the main claims of the States is that this is making my subjects pay double taxation We submit that there should be some rebate, or anyhow that there should be only one tax and not two taxes

When we heard of all this talk of our having to pay a corresponding share of the Imperial burdens we began to get alarmed. We began to consider whether it was in the best interests of the States to claim a share, or whether there were some other alternatives giving a more equitable arrangement

Speaking entirely for myself, so far as my State and Government are concerned, I am quite prepared to give up all customs duties now, provided I get a return to make up for that loss I am prepared to consider the abolition of all customs duties on my Frontiers provided I get not only a return for that but also get a provision consistent with the rise in prosperity I have just had the good fortune to start a system of irrigation covering one thousand square miles, thanks to the very great assistance of the British Government. Again, Sir Malcolm Hailey is responsible largely for a scheme for the erection of a dam in British territory, five hundred feet high which will add another 600,000 or 700,000 acres, making well over a million acres of irrigation. That sounds very large, but at present I have only 1/23rd of my State irrigated We have prosperity in railway development, in canal development, we have better administration, and our population will increase, and so the customs revenue will naturally increase. I tell you straight off that I am ready to give up customs duties, or let you pool these duties, or agree to whatever is a good arrangement, if we are given our share of the Sea Customs duties paid by our subjects to the Government of India exchequer.

One word on transit duties. I do not justify transit duties. In the very early part of my administrative active rule I and my [illegible] 't of transit duties in my State. [illegible] n that you are in effect charging [illegible] duties at the port of entry into [illegible] s well as on the ground of general equity, we are concerned to see that our subjects do not pay double taxation. We ask for a rebate I daresay some arrangement in regard to such goods would be quite feasible by which all dangers of smuggling would be reasonably eliminated. If a satis-

come later. We have to be very careful, and we have to know certain important things. If you like, our Delegation will give you to-morrow or the day after some of the points which will necessitate at least a preliminary investigation, and some kind of discussion before we shall be able to settle them. Sir Walter Layton talked of these things. He also proposed the substitution of terminal taxes. There are a number of these matters which I think will have to be provisionally settled on a certain basis

Mr. Gavin Jones: We are engaged in forming a great United States of India, and I will refer once more to one of the principles of Federation, namely, that trade and intercourse between the Federated States shall be absolutely free. In all Federations that has been a fundamental principle. I quite agree that we cannot go into details, but I would like the Delegates to come to the conclusion to agree to this fundamental principle, to be arrived at in some way or another. We do not want any injustice to be done to any State. The matter of revenue can be adjusted. Take the United States. If, when they federated, they had permitted any possibility of fiscal barriers being placed between the different States they would not have been the great nation they are to-day, and I would like to put it before everyone here that if we are going to have a real sound Federation we must agree on that principle

Diwan Bahadur Mudaliyar So, far as customs duties are concerned there may be room for the complaint that the States are paying indirect taxation, but the moment you make customs a federal subject and the customs a federal source of revenue, that complaint automatically disappears It may be that with regard to the individual States adjustments would have to be made, but when you make it a federal source of revenue, the State subjects are being directly or as indirectly taxed as British India subjects, and they get the benefit of it as much as British India subjects Therefore the first point to be remembered with reference to customs is that the federalisation of that revenue is the best means of getting rid of that complaint which is now being made.

Let me come to the question of the internal inland tax. Knowing something of the octroi duties, or the inland customs duties, which several States now levy, and which is a very vital source of revenue for them, however much in theory we might try to make these fiscal obligations as light as possible, it is impossible to ignore the consideration that the States cannot afford to give up these inland duties within their own frontier. That is to say, if an article is imported into a State from British India or from across the seas, that State has a right now to levy a duty, which is collected for the purpose of revenue, and most States will not be prepared to give it up. Nor can any question of compensation arise, because if India has to compensate, in the first place it will be so vast that the federated India will break down under the weight of it; and in the second place there is no compensation on the other side, except the theoretical compensation that in matters of trade and business these things may help towards a greater development.

So far as transit duties are concerned, the position is entirely different. Even with respect to European countries, under various conventions and League arrangements transit duties are avoided, when an article passes through several independent sovereign States, and it seems to me it would be a hopeless position if, in a federated India, there is any possibility of a transit duty being levied while an article is passing through several States.

H.H. The Maharaja of Bikaner: I am not proposing that.

Diwan Bahadur Mudaliyar: If, therefore, transit duties are eliminated altogether, and a convention is come to before the establishment of a Federation, no unit of the Federated India will levy transit duties on goods. If at the same time we give liberty to the units of the Federation, whether they be Provinces or States, to have their own inland taxes for their own purposes, then I do not see any difficulty at all in adjusting this question, provided at the same time we remember that Customs Revenue federalised means that it is an equitable arrangement for all concerned.

With regard to one observation which the Adviser from Travancore made regarding export duties, I should like to make the position clear. The export duty as he mentioned it is merely a duty on the raw products of his own State which the people of the State primarily pay for and which the consumer ultimately pays for. With reference to Provinces also, in my own Province of Madras, where the tobacco comes from, it has been seriously suggested that a tobacco tax should be levied on production. It is a sort of excise duty on tobacco which goes to the coffers of the Province. I do not see why there should be any objection to that sort of tax being levied, and therefore the subject which my friend has raised does not at all come into the question with reference to federation as a whole—as to the point in which State or in which Province that sort of taxation may be levied.

H.H. The Nawab of Bhopal: I want to know, in the Federation which is contemplated now, if a Federal pool is established into which the States will pay, or are asked to pay, is it the intention that every pice which the States now pay in various ways, as for instance, by means of ceded territories and by other means, will be paid to the States?

A Member: Ceded territories, no. They are already part of British India. There are certain territories where I believe only jurisdiction has been ceded but not sovereignty. That will have to be considered.

H.H. The Maharaja of Bikaner: May I say that except in the case of one State, which charges transit duties on opium, hemp, drugs and so on, there is not a single State which charges transit duties, nor is it proposed to do so.

(The sub-Committee adjourned at 4-30 p.m.)

The discussion on the subjects to be federalised was resumed later, *see page 75.*

PROCEEDINGS OF THE FIFTH MEETING OF SUB-COMMITTEE No. 1 (FEDERAL STRUCTURE) HELD ON FRIDAY, 5TH DECEMBER, 1930, AT 11 A.M.

The Component Elements.

Chairman : I want, if we may, to come to the first of these heads of discussion, the component elements of the Federation, and as His Highness of Bikaner has kindly said he will help us, I will call upon him at once. This is a most important subject and we must give it due time and consideration.

H.H. The Maharaja of Bikaner I think, as far as I am concerned, I can explain my points in a few words I am naturally only speaking for the States

The component elements of the Federation will be two: (1) on one side the States through their representatives—such representatives not to be the Princes—chosen by the Governments of the States and not the Princes. The States will come into the Federation individually by Convention.

On the one side, the States through their representatives chosen by the Governments of the States The Princes in person will not go into the Federal Chambers Such States will come in individually by Convention (a) All the important States to enjoy sovereignty and full internal independence (b) We are anxious equally to safeguard all the interests of the smaller States; there will be grouping of the smaller States, and the grouping of the smaller States will depend on the number of seats available for States under the Federal system The grouping of the States will be a matter entirely for the States and not for British India or anyone else—to be settled by the Chamber of Princes, I ought to add, where the Viceroy presides.

Then on the other side British India The States have no desire to interfere with the internal affairs of British India, but we do not know yet exactly with whom we shall be federating, and before having our final say on this aspect of the question I would naturally like to know what the decision will be in regard to the Centre and the Provinces so far as the British Indian side is concerned. It has also been made clear that we do not wish to federate with British India as the Government is constituted to-day.

I might just explain one point: the Treaties and Engagements are, as I think you all understand here, with each State, so we cannot coerce any State into joining the Federation. That is why we propose a Convention, the States entering individually. It is not only my personal hope, but I feel sure the hope of all of us here, that, as we said the other day, if we can get a satisfactory settlement of the Federal question and the States will come in, all of us will do our best.

That is all I think I need say unless any question is asked.

Chairman: These are rather technical questions that one is coming to now, and perhaps you will kindly help me in regard to some of them. They are rather legal questions. What I am thinking is this. Let us again put a concrete example, if we may. Assume for the sake of argument you come to the conclusion that for the good of all India—and that is what we are aiming at, and I have no doubt we shall succeed, but we must not do things in too much of a hurry—supposing you said: Well now, for the good of India, which is, after all, your home country, your native country, we think we ought to surrender certain of our sovereign rights: let us assume for the sake of argument—it is a matter for you—but we rather agree that you will surrender A, B and C, technically, I suppose, you would surrender those to the Crown?

H.H. The Maharaja of Bikaner: Not the Crown under the present system. We do not want to surrender anything under the present system. If a real Federal Government were established we would surrender a share of some sovereign rights to that Federal Government, not otherwise.

Chairman: I see what you mean. I was only thinking for the moment of the machinery of doing it because very many of these questions will depend upon machinery. You said, and I quite agree with you, that will have to be done by Convention. In a Convention there must be at least two parties. Assume for the sake of argument each State is going to have its own Convention, and this is the sort of way in which it would run—"It is agreed between the High Contracting Parties" and so on "His Highness of Bikaner," and who the other party?

H.H. The Maharaja of Bikaner: I should like to have time to think over this matter, but giving you my provisional views I suppose it may be the Crown, but my own idea was that when after our Conference the Crown, that is, His Majesty's Government, has settled the structure of, and we are all agreed on, the Federation, there will probably be an Act, I should think essentially an Act of Parliament passed. I am not sure; it is a matter for you. Anyhow we do not want an Act of Parliament to apply to the States, because Parliament does not legislate for the States. So we thought that with the approval of the Crown—that is my provisional opinion—in the Act of Parliament would be put down a provision that States who wished to enter would enter through a Convention, and the details of the Convention would have to be settled. But then the Convention I should have thought would be with the approval of the Crown and the goodwill of the Crown between British India on the one side and each State entering the Federation, whatever we may call it by name, on the other. I should think the Convention would have to be with British India and the Crown, on the other side, put in such a way that it would be an instrument all parties would be bound by; it would be tri-partite. What happens if the Federation—God forbid—does not work? Then we must be restored our rights now surrendered to the Crown for an object that does not materialise. However, that is a matter of detail.

Chairman · I am raising these points, not because I want to decide them now; far from it.

H.H. The Maharaja of Bikaner. I think your advice and that of some of our technical advisers on this side, and the views of our friends on the other side, would be helpful in this. My main point is that each State will have to come in by a Convention; otherwise it cannot come in It will probably be a Convention of the same type for all of them except that there will be special provisions applying to special States.

H.H. The Nawab of Bhopal. I only want to say that we are here only to explore
tution in India inte
vention, whatever
India Federation.
up a constitution for British India by an Act of Parliament, and *then to leave the door open to individual* States as well as groups of States to come in by Convention as it is decided upon here. The States joining in will, I think, be known as the originating States and others should be allowed to come in if they like at a later stage. We were hoping in our efforts to bring the States into the Federation in a body at once, but the door will have to be left open for those; there may be those who may not decide to join in at once. We realise that it would be to the advantage of all concerned to join in a body, but the fact that there is a possibility of some of the States not coming in at once cannot be ignored.

There is that point, and my third point was that the States will *not be prepared to come into the Federation with British India to* be administered as is now being done, and therefore it is essential that we should know what would be the constitution of British India in the future. We all hope it will be a constitution into which we could come, making it a greater and an entire India. That is exactly what my position is

Chairman: I am sure you will acquit me of any intention to cross-examine you; I simply wanted to think aloud again You were good enough to say—I quite appreciate your point—that as far as your own State is concerned (to deal with that individually for the moment) you would not quite desire to come in with British India as it now is.

H.H. The Nawab of Bhopal: No

Chairman: When you say that you in Bhopal do not want or would not want to come in with British India as it now is, what sort of thing in British India do you envisage when you will come in?

H.H. The Maharaja of Bikaner · As to the Paramount Power in the Crown, already we have some matters in dispute, as you know. In regard to our internal sovereignty we do not want to surrender more things under the present system. It is in our desire to help, as Indians, our country that we are willing to make some sacrifices, and therefore to delegate those powers on the natural

not even in the Great War, or for anything, although we did as matter of fact spend crores of rupees

Chairman: We are all agreed that we must endeavour to mak it as easy as possible for everybody to join in this great idea Th States must make it as easy as possible for you gentlemen ove there, and you gentlemen must make it as easy as possible for the States. May I put in a third element? Your very pertinent suggestion was this: "We shall have to get an Act of Parliament for some of these things," and we must try to make it as easy as possible also for those people who are in Parliament We have to consider it from three angles It is not merely a question of you and you, but it is a question of you and you and ourselves

H.H. The Maharaja of Bikaner That is why I mentioned the word "tri-partite".

Chairman May I continue the conversation with His Highness of Bhopal? You were good enough to say, Your Highness, that Bhopal—I will call it "X",—that "X" will not come in with British India as at present What change do you want in British India?

H.H. The Nawab of Bhopal A State will find it very difficult to come into a Federation if British India existed as a solid unit as it is to-day. It may like to come into a Federation if British India was also federated, as I said the other day, but it would not ome in against a three-fourths vote in a solid body That would iean that we would have a bloc of votes always dominating us id we do not want any further domination

Chairman: You would come in provided that the objection ich you have just mentioned could be in some way safeguarded? uld it be safeguarded in this sort of way—either by (1) ade- 'e representation, or (2) instead of a bloc of British India -ways voting one way, the individual Provinces?

H.H. The Nawab of Bhopal I think so.

Chairman Am I to interpret your language as meaning this— that your idea of the component parts of a Federation would not be British India on a bloc on one side *plus* any State who comes in on the other, but instead of British India as a bloc the Provinces coming in and you coming in on the other side?

H.H. The Maharaja of Bikaner We do not want to make a Federal Convention with the Provinces.

Chairman: I quite see the reason for that. All I am saying is hat if you on your side decide to come in, it does not very much oncern you how the other side come in provided that you do not are to make conventions with the individual Provinces.

H.H. The Maharaja of Bikaner: No His Highness of hopal thinks (and this is the point which I hope will not be misderstood) that if we do there would be against us a solid bloc e British Indian demands in the Assembly and so on, are often ed by solid bloc; whereas what we think is that when the Federal

House consists of representatives of the Provinces then there will be different interests, and we shall not always find ourselves absolutely against a solid bloc in everything in which the States' interests are concerned.

Chairman: To meet that sort of view, instead of having this solid bloc of British India, it is better to envisage it with the Provinces on one side and your States upon the other. That is clear I think.

Sir Muhammad Shafi: In order further to elucidate this matter, may I ask Their Highnesses one question, namely, whether the convention of which we are thinking is with the Provinces or with the whole of British India? You are anxious that the convention should be with the whole of British India and not with the Provinces. But in this Federated British India you will recognise that each Province will be a unit of that Federation. Supposing that after a convention with the whole of British India your State comes into that Federation, and forms a unit of the Federation, what will be the position then? Each Province is a unit, and you have become a unit. Or do you contemplate that the whole of British India will be a unit, and your State will be a unit?

H.H. The Maharaja of Bikaner: That is a matter which you will be settling. We look upon it then all as British India. We do not merge into British India, though we come into the Federation.

Sir Muhammad Shafi: I am thinking of after you come in.

H.H. The Maharaja of Bikaner: That is for you to settle. I do not want to be drawn into that. I cannot conceive that the Provinces will be ignored. Whatever powers the Provinces shall have is not for me to say.

Sir Muhammad Shafi: You will become part and parcel of the Federation.

H.H. The Maharaja of Bikaner: I do not quite follow the point which I am asked to elucidate. There are two Indias which everybody admits—the States and British India. The States are there. You are not wiping the States off the map. The States remain, and the States do not become British India. India, yes—but not British India. The States which federate are the one India. British India is Bengal, Punjab, Madras and so on. It is geographical. There is nothing in that.

Sir Muhammad Shafi: When the States have come in they become Federal India. The whole thing becomes Federal.

H.H. The Maharaja of Bikaner: I do not think that is for us to discuss. The two Indias are the States on one side and British India on the other. I think that point is clear. Look at the Simon Report. Look at the Viceroy's pronouncement.

Sir Sultan Ahmed: I thought His Highness suggested that you will come into the Federation not as a bloc but individually.

H.H. The Maharaja of Bikaner. I do not want to touch on t point of how many Houses, and how we are going in. There wi be a certain number of seats for British India and for the State You gentlemen from British India, with the approval of Hi Majesty's Government, will settle whether there will be five seat for Bombay, and so on. British India is what is shewn red on the map, and the Indian States are those which are shewn yellow on the map. That is all I can say at present

H.H. The Nawab of Bhopal We are rather in a difficult position in expressing our opinion about British India We in the States have no such problems as they may have in British India. Therefore I should like the British Indian side to discuss this matter of the Provinces and the Centre amongst themselves and make some settlement If we join in this discussion we shall be dragging ourselves into a controversy which may arise later on and into which we do not want to enter

Sir Akbar Hydari I am speaking only for Hyderabad so far as I can speak here without getting final ratification from my Sovereign. As I envisage the whole thing, in the first place we have been asked here with reference to a Federation into which we come. My first point, therefore, is that the Federal Legislature must be constructed with reference to the component elements of that Federation without any reference to the form of government or legislature of the federating units That is my first proposition

Sir Samuel Hoare I do not quite follow that

Sir Akbar Hydari We have concern only with the Federal Legislature, because it is in the Federal Legislature alone that we come in; and that Federal Legislature should be so constituted that we can come in having due regard to the polity which prevails in Indian States. Therefore for my part I think at present there should not be any regard to the form of government which Hyderabad has got, or which any other federating unit in British India has got. That is a separate question altogether

Secondly, as to the component elements of the Federation—and here I think everyone is behind me—I feel that the States have all to come in individually In the same way we want in the Federal Legislature, on the other side, that the component units should be the Provinces Otherwise we would be met by a bloc, and it would not be a Federation but a Confederation of British India on one side and the Indian States on the other, which is not the kind of ederation which we envisage We desire that there should be a Federation of all the federating units, with due regard to the pecuar character of their governments.

Chairman: May I see if I have got a correct note of that: The component units shall be (1) the individual States and (2) individual Provinces"

Mr. Sastri: In order to get it quite clear, Sir Akbar Hydari His Highness of Bhopal seem to have the same view, but I

understood His Highness of Bikaner has no opinion on the subject at all.

H.H. The Maharaja of Bikaner: I do not know whether there is a great demand that each Province must be called a State. That is a matter for the Crown and British India to settle.

Mr. Sastri: That is the difference which has emerged, so far as I can understand it.

Sir Mirza Ismail: I personally agree with His Highness of Bikaner so far as the designation of these Provinces is concerned. Whether they should be regarded as separate political entities for the purpose of this federation or not, is a matter to be settled by the British Indian Provinces themselves with the British Government.

Chairman: What you would say would be this. It is really the same as Sir Akbar has said. The component units are (1) the individual States; (2) with regard to the Provinces that is a matter for British India to settle. Now might I carry you with me in this respect? Although it is a matter for British India to settle, you would rather think that they should be individual Provinces, although whether they should be what I might call autonomous Provinces—I cannot put the right word to it at the moment—is a matter for British India. You would not object—in fact it would be rather your view—that the two elements should be the individual States and the individual Provinces, but with regard to the individual Provinces you say " That is not my affair."

Sir Mirza Ismail: Quite so.

Colonel Haksar: The position seems to me to be this. We are discussing the process of federation—how federation is to be brought about. At present in British India you have a unitary form of government, which means to say that the Central Government controls the whole of British India. The Princes have said definitely that they cannot federate with the existing government of British India with power of executive control in the Centre. Talking about the process, what I should suggest is—and I think it ought to be quite feasible—let us assume that the Crown favours the idea of federation of the States with British India. How is the federation to be brought about?

Sir Muhammad Shafi: May I correct one thing. The Crown contemplates federation of all India.

Colonel Haksar: Exactly. Federation of all India will come about by a change in the present system, in which the position exists that there are States on one side and British India on the other. Let us leave that aside. I should say that the process which could be applied would be this: by an Act of Parliament let a distribution of power take place so far as British India is concerned. That means to say that the present system of unitary government is altered by statute. There is a devolution of power to the Provinces. That is the first step. The

second step, when this distribution of power has taken place for the Provinces of British India (whose position in the fut Federation would be defined by that distribution of power) federate together and constitute a Federated British India W this Federated British India the States federate individually un there is a Federation of the whole of India

I am talking about the process This is how Federation woul become possible. by an act of Parliament by which there woul be distribution of power to the present Provinces, and an increas of power. What that increase would be it is not necessary fo us to determine now. Then these Provinces federate amongst themselves, and with this Federated British India the States federate individually

Sir Muhammad Shafi · As I understand from what both Their Highnesses have said, the States are willing to come into, not the present unitary British India, but into a Federated British India According to Colonel Haksar, who will be the units of this Federal British India? That is the question I want to put

Colonel Haksar · The units would obviously be the Provinces

H.H. The Maharaja of Bikaner I should be failing in my duty if I did not strike a note of caution in regard to the shape which this discussion is assuming For the last ten minutes I have been seriously thinking whether I should say anything or not, but I feel that it would not be right in the interests of the States or myself, or others individually on this side, if I did not venture, after very careful consideration, to make just this observation. The question which we are now discussing is the component elements of the Federation. We have told you, so far as the States are concerned, in what way the States will come in I made it clear—and I believe that His Highness of Bhopal agrees with me—that the question of how the Provinces, or what is red on the map of India, will be is not a matter for us to interfere with unless it concerns any State directly or indirectly By the accident of birth I happen to be a Hindu By accident of birth, His Highness and my friends here are Muhammadans I am quite sure that no questions asked on the other side are necessarily based on communal bias, but there is unfortunately this problem, and naturally the communities concerned have to safeguard their interests just as much as we have. I do not say that the Hindus or the Muhammadans are wrong, but I do think so far as we are concerned that the States should keep clear of this communal question, and that we should not be involved in what might be very legitimate interests of the different religious communities, or in the interests of minorities, on the other side Nobody regrets more han I do this unfortunate state of affairs in India, but it exists. ou have to deal with the States. You have to safeguard the ghts of the States. You have to safeguard the rights of the norities. You have to safeguard the rights of the religions, and erything; but I think this is the question: We will federate the present form is changed, and we will make voluntary sacri-

fices to help the three things in your preamble, which we did not finally settle upon in the Committee of the Conference. It is the present and future prosperity of India which we want to promote. That is the idea underlying the Federal union of all India, and it is to ensure efficiency, harmony and stability in the working of the union. In my preliminary observations which I made at the first sitting of this sub-Committee, I made it clear that it was in the interests of the Empire and of our Motherland, and we thought in the long run also in the interests of our States, for us to be willing to consider sacrifices in the way of delegating powers and coming into a federation where we shall share in those sovereign powers. Beyond that I think it is not a question for the States to enter into. This is a matter which I think our friends who represent British India can best discuss and settle. It is for British India as a whole to take up these questions, and it is for the Crown ultimately to decide them.

Chairman: I understand your position is this—that you individual States are prepared to come in, but you do not very much care how the other side of the Federation arranges its procedure so as to come in.

H.H. The Maharaja of Bikaner: It is not my concern, or that of the States, unless there is some point which affects the States directly. A Province may be all around us, and it may get such sovereign powers that we do not know where the final state of conflict will end. Then possibly we shall look to the Crown, through the Federal Centre, to settle those disputes and to prevent civil war, as far as the States are concerned; but beyond that we are not concerned.

Mr. Gavin Jones: We are quite clear about this—that the Indian States do not wish to federate with one bloc of British India.

H.H. The Mahahaja of Bikaner: I cannot conceive how you could possibly have a bloc at the Centre unless the Provinces are represented. But, really, I think we ought not to be drawn into that.

Lord Lothian: I do not know whether I might say a word or two on the technical constitutional side, because I feel the discussion is getting a little at cross purposes. Let us assume that there is going to be a Federal constitution for India in which certain common services are going to be administered and controlled and legislated for by a common Federal body. The Princes have made it quite clear that the units, so far as they are concerned, are the individual States who will send their own representatives in a way which they will decide to that Federal body. I do not think there is any dispute about that. So far as British India is concerned, looking at it from the technical point of view, there are only three ways in which a Federal Legislature can be created: either the actual members can be elected by a British India Legislature, or they can be elected by Provincial Legisla-

tures in some form, or they can be elected by the peopl As far as I can see, there is almost no other way of do you begin to consider it in that way, I think it begins into what looks like a matter of controversy between th States on one side and British India on the other I imagine that anybody suggests that a British India Leg should be the electing body for the Federation of British I

Mr. Sastri By the way we are talking to-day we seem e us to be anticipating something which may happen hereafter have really something at the back of our minds and therefore to be saying things of which the meanings clear to our own m are not quite clear to others.

I should like first of all to say that I am not thinking present of the process by which Federal India will be built I am not competent to discuss that matter, I leave it entirely constitutional lawyers But when the Federation has been mad what will it be like? That is what I am thinking of When th whole legal process is completed and the Federation is at wor in India, what will it look like? It seems to me from the trend of the discussions that we have had that the Indian States will come in only if the subjects of common All-India interest are kept within a narrow compass and so as to interfere with their sovereignty as little as possible It seems also fairly clear to me that the Provinces of British India which are now held together by a unitary form of Government cannot go nearly so far as regards their internal autonomy It is therefore quite likely in fact more than likely, that when the Federation is in full working we shall nd the Provinces working together for a much larger number of subjects than those which bind them and Indian States together In other words, there will be, as was stated two days ago at this very Committee meeting, a Federation within a Federation At present the Provinces of British India have more in common both by way of legislation and executive work than the Provinces of British India and the States altogether If that is the case, it becomes only a question of technical phraseology whether we should say the component parts of the Federation or British India on the one side previously federated for certain purposes, and the ndividual States on the other, as they come in, or the Provinces of British India federated together on the one side, and the States as they come in on the other. Whether we say British India federated together for common purposes or British India having a certain number of Provinces federated together is a question merely of technical phraseology. His Highness of Bhopal spoke of British India as a big bloc. Yes, that would be the case. I am not at the present moment able to envisage the full working of this Federation; whether for any purposes British India will vote together as one bloc, I do not know, but at present I am only thinking that when the Federation is at work the Provinces will vote separately and the Indian States will vote separately. That at present my conception. I do not think that the voting

strength of the Provinces will be pooled together, and the States will have to confront that big bloc with the threat of being always overshadowed. I do not think of it at the present moment. Whether it will ever happen is more than I can say, but for voting purposes the Provinces of India will be, it seems to me, separate. That fear being removed, whether we say British India and the States federate, or the Provinces or present British India and the States federate, is only a question of words.

This much seems to me to be clear, to recapitulate. The Provinces of British India will for legislative, administrative and financial purposes have much more in common than these Provinces and the States altogether. I cannot conceive of the Provinces of British India and the States being in exactly the same position. The words are: "Federal Government" when we have constructed it.

Sir Mirza Ismail: I only want to say that I cordially agree with everything that has fallen from Mr. Sastri.

Sir C. P. Ramaswami Aiyar: My leader, Mr. Sastri, has put forward my point of view in his own inimitable way so adequately that, normally speaking, I should not have added a single word to what fell from him. The matter is however, of every great and fundamental importance, and ideas on this subject must be clarified. I therefore make bold to occupy a few moments of your time.

In the first place, I wholly agree that to some extent this question is a matter of words rather than of substance, but that there is substance behind it there is no gainsaying, and also that there are great differences of opinion on the topic which have to be reconciled in this Committee. I accept what has fallen from Their Highnesses; they are not concerned as to what the internal arrangements of the Federation should be before they come into the Federation, and what the rights and obligations *inter se* between Provinces and the Centre are is not a matter of vital importance for them. However, as Mr. Sastri has emphasised, the viewpoint of the States which is made perfectly clear is this, that they are willing to come into the Federation with regard to certain subjects, but naturally they would like those subjects to be as limited as possible in scope consistently with the greatest good of the Federation and the common benefit of India. Let me illustrate this in regard to various points like railways and ports and Customs. The thought has been expressed that while the Indian States would like to come into the Federation with regard to policy and legislation, with regard to administration and details they would not like to surrender their individuality of their sovereign rights in favour of the Federation. I trust I am not misinterpreting the ideas actuating the Sates. It is impossible for me to conceive that in such a matter as railways, whatever may be the autonomy of the Provinces, there should not be unity of administration and a great deal of detailed co-ordination at the Centre. In other words, while I am entirely an advocate of provincial autonomy and hold the view strongly that it will be

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company law, and many other questions of that kind that are
bound to arise. As I stated in my opening remarks, the unifor-
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taining that uniformity which has been secured Obviously, as
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best for the Provinces if they are made practically free units of the ultimate Federation so far as feasible, it is necessary for the Provinces to be much more closely knit, having regard to the historic past and the needs of the future, than it is possible to conceive that the States should be in the immediate future. Putting it in another way, while with regard to customs, railways, ports and practically all the present central subjects, British India would have to continue as one, British India and the States would combine together only for certain specified and in certain cases limited purposes for the common benefit Therefore the whole question is a very complicated one You will really have a Federation in British India and the Central Government of British India will exist after the Federation as before though in a modified shape. I grant that technically you may say the Provinces are federated with the States, inasmuch as the Provinces pool together their resources, and the sum total of the Provinces federate with the States. To that extent it would be correct to say the Provinces federate with the States But the Provinces *inter se* will be necessarily much more closely connected and have many more points of contact in administrative and other details than would the Provinces and the States In other words, in the immediate future I do not conceive that Bombay and Bikaner would combine together for administrative detail, but Bombay and Madras would have to combine together for that purpose Take the question of civil law, the question of criminal law, the question of company law, and many other questions of that kind that are bound to arise. As I stated in my opening remarks, the uniformity already achieved is precious In the case of criminal law, company law and civil law, I would envisage in the immediate future a well co-ordinated organisation of a Federal Legislature operating in those spheres for the purpose of preserving and maintaining that uniformity which has been secured Obviously, as has been made abundantly clear here, Their Highnesses do not conceive of coming into the Federation in the sense that the civil law and criminal law and the internal administration of those laws would be affected by any Federal legislation That there would have to be Federal legislation for all British India goes without saying. If there will have to be Federal legislation, a Federal Administration for British India, it is largely a question of words as to what you say with reference to the status of the provincial units I am perfectly willing to say either " that the Provinces federating together, federate with the States ", or " British India as a Federation federates with the States " It appears to me to be a question of words, but what is a matter of substance is a recognition of the fact that, *so far as the Provinces of British India are concerned*, from the very nature of the case they would have to work together in matters of legislation and administration in a much more close-knit way than the States acting individually or grouped together. With regard to what has been said with reference to these Provinces, I take it that the Indian Sates do not wish to interfere with these arrange-

much about the States. What I want to think about is India, and although I see difficulties—if there were not difficulties we should not be here—I hope that as we go along we shall think more about India and less about British India and less about the States. It is India that I am anxious about, and that is the goal, those are the delectable mountains I put before you as worth while to capture. India is your own country, a country which, if I may say so, my own country has greatly helped, and is greatly interested in. I want to see India a world force, and India will be a world force if you have great opportunities In these days of democracy there is something to be said for a great tradition and a great literature and a great learning, all of which you have got, but the more you think about British India and the more you think about individual States the less real satisfaction will India itself get I beg you then, as a well-wisher to India, to fix your minds upon that objective, and whenever you perhaps think "Oh, well, I am going rather far, and I am perhaps not quite certain", recollect it, our goal is India itself and not any portion of India

If you will forgive my saying so, I think two things must be kept distinct: (1) the form of the Federation and the parts of which it will be composed, and (2) the process by which the Federation can be completed Now it looks to me that the trend of our discussion is this, that the Federal body will consist of component elements each of which will be either a State (or a group of small States) or a Province, Hyderabad will be a State, and Kashmir and so on

The note I have says that the number of States in India is 662. In regard to your Chamber of Prices these are the figures there are 108 Treaty States whose rulers are members in their own rights; there are 127 States represented by 12 members If you add together those 108 and 12 you get 120, which is the number of the Chamber of Princes; but in fact there are a number of them which are very small States

H.H. The Maharaja of Bikaner May I just explain one point which I want to make clear? It is a matter concerning the States only So far as we can see there is no necessity for the smaller States to federate. I was going to explain for the benefit of any who may not know it that although there are 600 so-called States, strictly speaking there are 34 States who have Treaties; others have engagements and so on. When we settled on the 108 there were some States excluded for certain reasons. We went on a double basis. The 108 Princes were members of the Chamber of Princes in their own right. We considered, from the bigger to the smaller States, the more important States either on the salute basis or on their powers of internal sovereignty and independence. Then there were, as you have said, 127 States who were considered important enough to be represented, but we have only 12 representative members The interests of all States are practically identical, and some of them are so small that they are not represented. So when we know what the numbers will be, up to a

certain number, according to the numbers available each will come in and then we will form groups of others to make up the number. If there are more than 127 seats available we add a larger number of groups of States.

Chairman: That clears it up.

Might I just go on with this. I think we can come to a decision on this first point—only tentatively. The Federal body will consists of component parts each of which should be either a State or a group of States or a Province. How will that body be arranged? What will be the powers of the Executive and Legislature? What will be the number of the Chambers in the Legislature? How many members will there be in such Chambers? How will these members be chosen? These are distinct subjects which we shall come to in the next heading.

As to (B), the process by which federation can be accomplished, I want to speak very slowly. I do not think that is so important now. Take it from me that once we have settled the other point, the process will be arraged, I will not say automatically and I will not say without difficulty, but it will certainly be arranged.

As at present advised—and only as at present advised (please do not misunderstand me, I only say as at present advised) I think the power which can bring the thing into existence is probably the British Parliament. That Parliament has no power to deal with the States. What, then, must be the first step? We are doing here a most interesting thing. We are taking part in a discussion and in an endeavour to bring about something which may bring world peace. We are trying to federate here people who owe allegiance to different people altogether. May I say this sort of thing: Canada; it was not difficult, allegiance to the British Crown, Australia, all allegiance to the British Crown. We are trying to federate here people who owe different allegiances, and we are taking a step which will probably be a world example; and I do not want it to fail.

I think at present that Parliament, having no power to deal with the States, the first step would probably have to be, as a merely technical constitutional matter, for the States to make to the Crown surrender of such concessions as are necessary for the Federal purposes. That will be done by convention.

H.H. The Maharaja of Bikaner: For this specific purpose?

Chairman: Yes, certainly—surrender of such concessions as are, I will not say necessary, but as are agreed upon for Federal purposes.

The next thing is, I think the British Parliament can then effect the Federation by doing two things—(1). having regard to the fact that the States would not see their way to come into British India as at present constituted, I think the British Parliament would probably have to split the present unitary government of British India into a number of—I am not going to use adjectives, purposely; I know a good deal about the current of

opinion here—into a number of may I say governments That is quite a neutral word. You understand me Mr. Sastri. The extent of those powers will be another distinct question. Having done the splitting up of the present unitary government, I think the next thing would be the uniting of the States and the Provinces in the Federation for the specified purposes That is the process. We will have to come to details later on, but I think that that statement expresses the general trend of the discussion

Mr. Sastri: Does it? Does it take into account, or does it leave out of account, the point that we raised here about the bond as between the Provinces of British India being of a different kind from the bond between the British Indian Provinces and the States?

Chairman: Yes, I think so I am very much obliged to Mr. Sastri for bringing out that point. As one goes on one may have to alter one's opinion. It may be—and it meets your point—that there will have to be some sort of separate authority for British India itself. I am only thinking aloud here It may well be (and there are precedents for this) that that separate authority—and there are all sorts of ways of working out the details—would deal (1) with what I call central subjects as distinguished from Federal subjects. Then you, Mr. Sastri, quite rightly from your point of view, might say " Well, will that separate body which, by the hypothesis, deals with the central subjects, have any say or anything to do with the Federal body and the Federal subjects? As it stands I do not think they would have any direct influence on it. Certainly not. But I cannot help saying that it might well be —I do not say it would be—that their views and their opinions might have an indirect influence upon it I do not say how it would be expressed, or anything like that, all I am saying is that there may be Central subjects for a separate body, and it may well be that that body would have an educative effect Do not misunderstand me—not a legislative effect, nothing like that at all; that is not in my mind at all At the same time I cannot help having in my mind the goal of India; and as I said the other day, you will find as time goes on that your Federal body will more and more gain power, will more and more gain prestige, will more and more be the centre of Indian thought and Indian power. I quite see your point, I am willing to provide for it somehow But at the present moment only I think the sort of thing I have read out—not the remarks I have made upon it—is the trend of your opinion. Am I right in interpreting that as your wishes, and at any rate in this sort of way: we have got to report to the Plenary Conference. Is that the sort of report that you would like? I am not tying you to the words at all. I will put it in proper language. Is that the sort of majority opinion here as to what we should lay before them with regard to (1) the component elements of Federation and (2) the process by which probably it will be eventually carried out?

Mr. Jinnah: Subject to this—on question number (1): as to how much the Indian Princes will surrender for Federal purposes.

Chairman: Yes.

Mr. Jinnah: And on question number (2), what will be the powers of the Provincial Governments. You have described the units as Governments or Provinces. That word "Government" or "Provinces" is a word which conveys nothing practically, except that they will be separate Governments. What will be their powers in relation to the Federal Government? That will have to be considered.

Chairman: Certainly. All I was saying was this. I know from what I have been told this morning that those other gentlemen have sort of been considering it, and what I have said—I do not say it is right—is, well, this is a very important matter, because it affects the Centre as well, and it may be necessary for that Committee and this Committee—or if that is too large—for some of us to meet together to consider that point.

Mr. Jinnah: I am not objecting to any process of adjustment. All I say is this—that I have nothing to say against the statement which you have made, and I say, "Subject to that". That is all. I am not going into it at present.

Sir Tej Bahadur Sapru: With the utmost possible respect to you, I should like to make it quite clear that I would reserve my opinion on the question raised by Your Lordship until I am satisfied as to what provision you propose to make for these subjects which you have characterised as Central. Secondly I should like to be satisfied as to what is going to be the constitution of your Federal Legislature and Federal Executive, and the relation between the two, before I can commit myself.

Coming to the general question which has been the subject of discussion this morning, with your permisison I would like to place a few considerations before you. Let us first of all bear in mind the present position in what is British India. None of the Provinces in British India can claim, under the present constitution, the status of a sovereign state, at the present moment. They are all subject to the control of the Governor-General in Council, who in his turn is subject to the control of the Secretary of State. I can therefore very well appreciate the remark made by His Highness of Bikaner that the Indian States would be unwilling to federate with British India as it is at the present moment. Even if Their Highnesses were ready to federate with British India as it is at the present moment, I can foresee very difficult legal and constitutional questions arising. Therefore I take the position to be that the Indian States would come into the Federation when the scattered units of British India, the Provinces at the present moment, have been federated: in other words, they would not like to federate with a Province like Bombay, with a Province like the United Provinces, or with a Province like the Punjab; they would like to federate only when these Provinces have been federated.

Therefore it is inevitable that you must federate the Provinces of India, and when that result has been achieved it does not

matter to me, from the point of view of substance, whether you call the sum-total the Federated States of British India, or the Federated Provinces of British India, or whether you call it, for the sake of convenience, British India; it really comes to the same thing; but when you have federated the Provinces of British India you have got to provide, somehow or other, for what is, in British India at the present moment, called the Central Government, and for what will be called the Central Government in relation to the federated Provinces of British India, and in regard to those subjects in which the Indian States are not interested. Much of the difference of opinion which seems to exist on the subject seems to me to be due to some considerations which have not been brought before this Committee this morning. There seems to be a feeling that the Provinces must stand exactly on the same footing as the Indian States are so far as the question of sovereignty is concerned, and unless that condition is satisfied some friends who are here will not agree to the federation. Now, the view that I take is this When you have federated the Provinces, no doubt you will raise their status to a much higher position. What that status will be—whether that will be a sovereign status or something less than that—is to my mind not a very material question Speaking for myself I do not hesitate to say that in actual theory of law these Provinces, when they have become parts of a Federal whole, will be more or less sovereign.

Chairman: Now, would you mind saying that once again? They would become more or less sovereign?

Sir Tej Bahadur Sapru They would become more or less sovereign, and I would beg the House not to allow its mind to be influenced so far as the question of the sovereignty of the Provinces is concerned by any question of the residuary powers That question, to my mind, stands on a separate footing.

Chairman: I agree with that

Sir Tej Bahadur Sapru · Take, for instance, the case of Canada, and compare it with the case of Australia. In Canada, the residuary powers belong to the Central Government In Australia the residuary powers belong to the States; and yet, from a strictly legal point of view, I think it would be difficult to maintain that the States in Canada are in any substantial degree less sovereign than the States in Australia are.

Chairman: A very good observation!

Sir Tej Bahadur Sapru: The question of the residuary jurisdiction is, to my mind, more a question of policy than a question of sovereignty. It may be that for certain reasons you may decide to lodge the residuary powers at the Centre. That is a question which I think should be approached on its own merits; but I will beg you not to confuse that question with the question of the sovereignty of the States.

Chairman: Quite right.

Sir Tej Bahadur Sapru: Very well, that being the position—that you will have necessarily, by an Act of Parliament, to raise the status of these Provinces—when you have raised the status of these Provinces then there will be the question for you to decide as to whether you will invite the Indian States to come into the Federation, or whether you will invite the Indian States to come into the Federation simultaneously. According to the view which has been put forward by Your Lordship this morning, it seems to me that you invite the Indian States first of all to make a surrender of their sovereignty in regard to those matters which they are prepared to throw into the common hotchpotch. Very well. I can quite understand that procedure being followed, and it is for the Indian States themselves to make up their minds as regards that. On the other hand, it may be—and I make that suggestion very humbly—that you may federate the scattered Provinces of British India by an Act of Parliament which can be passed with regard to what is at the present moment British India, and give these federated States of British India an enabling power to enter into covenants and treaties or conventions with the Indian States. Well, that is a matter of convenience, and in a matter of that character I should show the utmost possible deference to Your Lordship's opinion; but, as I take the position as explained by His Highness the Maharaja of Bikaner—and I really think that there is no vital difference between His Highness's position and that of His Highness of Bhopal—the outstanding fact is that the Indian States will never come into any federation unless the whole composition, structure and character of British India as it is at the present moment is altered. Therefore, it follows, to my mind, that you have first of all to tackle the question of British India. I see no difficulty in the Indian States coming in either under the suggestion made by Your Lordship or under the suggestion made by myself; but you have got to tackle the question of the Provinces, and that necessarily leads to the question of the relations of the Provinces to the Centre.

Col. Haksar: That is the one point which is a matter for consideration, and that is the reason why I requested that what fell from the Lord Chancellor this morning should be circulated—the suggestion, namely, that the States should surrender for specific purposes, a measure of their sovereignty to the Crown to enable federation to be carried out. That is a point that will have to be considered by us.

Sir Akbar Hydari: I agree with the Lord Chancellor that whatever surrender of the States there is will have to be to the Crown.

Mr. Jinnah: I am very much obliged to Sir Tej Bahadur Sapru for putting the matter in the aspect in which he has put it. What we are, as I see, considering is this. The Indian States are undoubtedly sovereign States, and we are now engaged with this consideration of the matter: what are the matters in regard to which they are willing to surrender their sovereignty for

the federation of all India? That is what we are concerned with at present. Sir Tej said that so far as the Provinces are concerned, at present, under the present Government of India Act, it is a unitary Government, and they are not sovereign Provinces; but in order to consider the federation of all India, we must start with some basis, and the basis can only be that for the purpose of federation we also treat them as sovereign States, and see how much they will surrender, just as in Canada. In Canada, as Sir Tej Bahadur Sapru put it, although the residual power is in the Central Government, nevertheless the Provinces are sovereign Provinces; but the answer is that those Provicnes, by agreement, surrender the residuary power to the Central Government. It was a surrender. Therefore they still remained sovereign Provinces, just as the Indian States will remain sovereign States, although they may surrender certain powers to the Federal Government. Therefore the question is really this. We must start with this basis I am only talking in theory What will be the position ultimately? The position ultimately will be that the Provinces will be also sovereign Provinces, having surrendered what they may agree to surrender, just like the Indian States Well, if I am right so far, then let us first consider how much are the Indian States willing to surrender, so that we at least get to something definite, and so that we can see real federation in front of us. Until the Indian States have, if I may say so, sufficiently or adequately surrendered their powers, which will make the Federation a real Federation, it is to my mind no use raising the question as to what the Provinces should surrender, and if the Provinces have to surrender something more over and above what the Indian States are willing to surrender, than that something more, we will call it X—cannot be within the jurisdiction of the Federal Government, because it will be no concern of the Indian States. It will be then, as it is described, a Central matter, and who will be the authority to deal with it, as you put it yourself? Therefore I beg to this House not to run away from the real issue, and the real issue, I submit, before this Committee, is to see whether the Indian States as a body are prepared to surrender something which is real and substantial, which will make the Federal Legislature and Federal Government possible. Until we get to that, we shall be merely raising a side-issue again.

Col Haksar: Mr. Jinnah, might I ask what it is that the Provinces have got to surrender to-day? You have instituted a comparison between the States surrendering and the Provinces surrendering.

Mr. Jinnah: Excuse me, you are still thinking under the present constitution. That is exactly the fallacy.

H H. The Maharaja of Bikaner: Before the discussion goes on, may I ask a question on constitutional wording. I myself used the word surrender; but Your Lordship can tell us is not the right term " delegation " according to the Federal text you read out the other day? I simply want to know whether, as far as

the States of India are concerned, the correct word would not be "delegation"? We have had in the past difficulties due to incorrect or loosely worded phrases. I do not want to talk on this question, but I made that note early this morning, and I hope for the sake of the States that you will give a ruling as to what is the correct term according to the passage you read from the Encyclopædia Britannica.

Chairman: I certainly will give that. I would like to think of it for a moment. I adopted your word.

H.H. The Maharaja of Bikaner: I used the word "surrender" myself, but I think the correct word is "delegation."

Chairman: Of course, we shall not allow mere phraseology to prevent India being all right.

Mr. Gavin Jones: What Mr. Jinnah has been saying is perfectly correct, but if he will forgive me for saying so it is exactly what we are doing here now, and I think the representatives of Their Highnesses here are doing their best to see what they can surrender, and I think that really we are making very good progress.

Now, as regards this question of the component parts, the view I take of it is this, that Their Highnesses have very clearly stated that they would not federate with the present British Indian Government—that is to say, they would not federate with a unitary government that is controlled in the Centre—and in this I agree with them entirely as a matter of principle, for it would mean a dominating State in the Federation. We have a very good example of that in the Federation which Bismarck brought about, in which he created a federation where Prussia was absolutely dominant, and the result, as we know, was the Great War and was very unsatisfactory. Therefore they are quite right in saying that they do not wish to federate with too strong a single power, and although I agree with much of what Sir Tej Bahadur Sapru has said, I would much rather put the matter in the opposite direction to what he has done. He wants first to federate British India, and then to ask the Indian States to come in. Now, I would reverse the process and first create your Provincial States, and then, when the Provincial States are created, leaving the present Government as it is at the moment—it will stand until something fresh is put in its place—then the different Provinces could come forward as separate States and federate with the Indian States. I think, Sir, that if it was done in that way we should get something much more satisfactory.

Mr. Sastri: I do not quite understand. Will you make that clear again? I do not quite follow.

Mr. Gavin Jones: Sir Tej Bahadur Sapru has said that we must first federate British India and then ask the Indian States to come in. I think it would be far more satisfactory if the present British Government in India were to create the Provincial States,

Sir Tej Bahadur Sapru: How can they, when the Central Government is not changed?

Mr. Gavin Jones: The Central Government will be changed hereafter.

Sir Tej Bahadur Sapru: Then that is not federation

Mr. Gavin Jones. It is preliminary to federation, and then your Provinces will federate with the Indian States

Sir Mirza Ismail · My Lord Chancellor, it seems to me that it is impossible to deal with this question properly so long as we discuss it in general terms and on abstract principles, because so much depends upon the number and importance of the central subjects—I mean subjects reserved for disposal by a central executive and legislature. Whether that central executive and legislature should be quite distinct from the federal executive and federal legislature is a matter which has still got to be discussed and disposed of.

Chairman: I agree.

Sir Mirza Ismail Mr. Jinnah asked what the States were prepared to surrender—I use the word surrender for convenience.

Chairman: Yes, for convenience only

Sir Mirza Ismail He wished to know what the States would surrender to the Federal authority I thought that question was disposed of by yesterday The list of Federal subjects which we have drawn up (only tentatively it may be) indicated with sufficient clearness, I think, how far the States are prepared to go in that direction. Now the question is, how much power are you going to delegate to the Provinces, how far are the Provinces going to be autonomous? And what are the matters, if any, that are to be reserved for disposal by a Central authority in Delhi?

Diwan Bahadur Mudaliyar. I think fundamentally there is a misconception in the minds of many of us, because we constantly come across the question, what is to happen to those subjects which Your Lordship has grouped as Central subjects, and if we had passed on from Federal subjects to those central subjects, probably much of this discussion might not arise. It seems to me, as Mr. Jinnah put it, that to call the Provinces States, and then to suggest what the States would surrender, would be looking at it entirely from a wrong angle of vision. In the first place, the Provinces are not sovereign States; there is no question of surrender by the Provinces. In the one case, so far as the Indian States are concerned, they are delegating or surrendering to the Federal Government. When you come to the Provinces, you have to reverse the process and to ask what the present unitary Central Government is going to delegate to the Provinces. That is a line of enquiry that has to be pursued before you can make up your mind how far the Provinces have attained, or are likely to attain, sovereign status. No doubt the Provinces come, as Provinces, into the federation along with the States for a particular purpose,

and to that extent the Central Government merely transfers the present powers from the Central authority to a Federal authority. Even there, there is not really a surrender by the Provinces to the Federal Government, but there is really a transfer from the present unitary Central Government to the future Federal Government. Therefore, from either point of view the Provinces are not surrendering anything. On the other hand, the conferment of a larger sovereignty is what is required now so far as the Provinces are concerned.

Mr. Jinnah: I never said that the Provinces should surrender anything. I said we must put them in that status for the purpose of forming your federation.

Diwan Bahadur Mudaliyar: I do not know whether Mr. Jinnah means figuratively you must put them in that status.

Mr. Jinnah: Yes. May I say a word, because there is, I think, a misunderstanding. When the federation of Canada was achieved, and the federation of Australia was achieved, the Provinces were not sovereign Provinces or sovereign Powers; they were colonies.

Diwan Bahadur Mudaliyar: There is no analogy between the position of the Indian States and the position of the Provinces at all.

Chairman: I think the Canadian provinces before 1867 were not sovereign states; I doubt if they were sovereign states, as you say.

Mr. Jinnah: Nor the Australian.

Chairman: They had a legislature, but they were not sovereign.

Mr. Jinnah: Their legislature in Canada and Australia was almost exactly what we have in India to-day—practically exactly.

Sir Muhammad Shafi: And, if I may say so, the real truth is that the Dominions have become sovereign only in 1926—not ever before.

Sir Mirza Ismail: Were there any states like the Indian States there?

Sir Muhammad Shafi: That is quite a different matter.

Mr. Jinnah: Of course, that is an additional problem with which we are concerned.

Diwan Bahadur Mudaliyar: So far as the Provinces are concerned, the real problem at the back of many of our minds is, when are we going to take up the problem of what the relations between the Provinces *inter se* are going to be, and when are we coming to the question of the federation I visualised in my first speech, and whether there is need for one at all? So far as the All-India Federation is concerned, there is immediately a distinction between the Provinces and the States. It is possible, as I said, that some States may come into the Federation and some may not, but we must exclude from all thought the possibility that some Provinces may come in and some may not. Whatever

rights you may give to the Provinces, it must be understood that all the British Indian Provinces do come at once into this Federation. That is a vital distinction between Provinces and States. If that is agreed upon—that the future federation will consist of all the Provinces of British India and such Indian States as may come into the Federation—then it does not matter by what process this Federation is formed. It may be, as Your Lordship has suggested, by a surrender to the Crown (and then it cannot be a delegation) of such powers as are required for federal purposes by the States. It may also be, as the sections of the various confederations suggest, that we may immediately lay down a statement that an All-India Federation will consist of the following units—those units which now, at the preliminary sitting, agree immediately to come in—and all the British Provinces, and then give a power for that Federation to enter into conventions with individual States which may come in later His Highness the Maharaja of Bikaner asked with whom we are going to have the conventions. I say, not with British India I say it is not even necessary to surrender to the Crown and then come in in a roundabout way. If you grant that none of the States are coming in, if no States are coming in at the initial stage, we are not going to provide for a future which may or may not arise, and all this talk of federation disappears, but we have this federation on the initial hypothesis that some States are coming in, and therefore I would visualise the statute passed by Parliament to be that the All-India Federation will at present consist of all the Provinces of British India and the following States; and power will be given in that Act for this All-India Federation to enter into conventions with other units which may later come into the Federation.

Chairman: We have done the powers of the Federal legislature, tentatively, because we have got a great number of things that we think are the Federal things We had better take Nos 1, 2 and 6 all together now, because, as every speaker has pointed out they are rather mixed up with one another.

I ventured to put before you an ideal—that is to say, to think less about British India, less about the States, and more about India, because I believe in ideals, and the higher the aim the better you will do. But what I want to put before you now is something practical, and to drop ideals for a moment. We have got a good deal on the way with the component elements; we have got the powers of the Federal legislature tentatively fixed.

(*The sub-Committee adjourned at 1-5 p.m.*)

PROCEEDINGS OF THE SIXTH MEETING OF SUB-COMMITTEE No. 1 (FEDERAL STRUCTURE), HELD ON MONDAY, 8TH DECEMBER, 1930, AT 11 A.M. AND 2-45 P.M.

Sir Sultan Ahmed: As regards the three points which are under discussion: Head No. 1, the component elements of the Federa-

tion; 2, the type of Federal legislature and the number of chambers of which it should consist; and then Head No. 6, its constitution, character, powers and responsibilities. I do hope that in the fulness of time the list we have made of federal subjects will be increased very largely.

NOTE.—From this point onwards the discussion covered all the Heads so far referred to the sub-Committee and not only the Component Elements.

As regards the component elements of the Federation. before I came to this sub-Committee I had a very clear view that you can have only the Provinces of British India and Indian States individually as component elements. My views have been confirmed by the discussion here and by the clear and precise statements made by Their Highnesses and the representatives of the Indian States. They have clearly stated that they will not federate with India as it is at present constituted; they will federate with a federated India, which assumes Federation so far as British India is concerned. We will have to find out the units in that federation, because India by itself cannot be the unit of Federation, and the only answer that can be made to such an enquiry is that the Provinces must be the units. It has been suggested in some quarters that the Provinces at present are not sovereign States. But that ignores the fundamental principle upon which we must start our investigation, that we must forget the present constitution altogether. We are trying to evolve a new constitution, and therefore we can always suggest to the Parliament to create the Provinces, so to speak, as sovereign States. Technicalities should not stand in our way, as you have repeatedly suggested, in trying to evolve a constitution which will be for the interest of India as a whole. That being so, I do respectfully submit that the Provinces only can be the component elements along with individual States, each functioning in its own way. So far as the internal affairs are concerned, both of them would be more or less sovereign, and for common subject both of them will try to pool their resources and wisdom which will be the basis of the Federation.

That is my submission with respect to the first point, the component elements of the Federation, upon which I feel confident that there will be no difference of opinion.

I go to the second head, which is much more important, the type of Federal legislature and the number of chambers of which it should consist. For myself, I cannot visualise anything but one federal body at the Centre, consisting of two Houses, the Lower House—call it by any name you like—and the Upper House. It may be called the Federal Assembly and the Federal Senate. In trying to solve this problem at the Centre, I am following the lines of least resistance, that is not doing away with the present constitution of the two Houses; that is, I keep the two Houses as they are. Their powers, however, will differ, because of the new factor of the Indian States coming into our Federation. I would have representatives from the Provinces of

British India, as well as from the Indian States, in the Lo House as well as in the Upper.

The number of members composing the Federal legislature the method whereby representatives from British India and fr the States are to be chosen are subjects coming under heads 4 a 6, with which we have no concern at present, and it is enough my purposes to submit that I would welcome representatives the States in both Houses. But it is entirely for Their Highness to decide as to whether they will send their representatives to th Lower House or not. It is obvious that the Lower House wil be the popular House, and if they come in I do not for a momen suggest anything as to the method by which they should elect their representatives or nominate their representatives, but they must feel certain that the contact with the representatives of the people will have its repercussion in the States. As regards the Federal Senate—that is the Upper House—I would have the same constitution, representatives from the Provinces and representatives from the States, though I would like to make it perfectly clear that so far as the Upper House is concerned I would have no direct election at all. But I will for that purpose accept the recommendation of the Simon Commission that the Upper Chamber should consist of representatives elected by the provincial legislatures on the one side and elected or nominated, as the case may be, by the Indian States. The Lower House will deal with all subjects concerning British India alone and those concerning India as a whole—that is, the subjects which we have selected as subjects of common concern, but so far as the decision of the various matters concerning these two separate items is concerned I would have the decision of subjects concerning British India o be dealt with by the representatives of British India alone.

Sir C. P. Ramaswami Aiyar: Pardon me, do you mean discussion and decision?

Sir Sultan Ahmed: Yes, discussion and decision. With regard to the subjects of common concern, I would have the decision of the whole House. Similarly, I would have the decision of subjects concerning British India alone discussed and decided by the representatives of British India alone in the Upper Chamber, and subjects of common concern to be discussed and decided by the whole House—that is, consisting of representatives from both

The submission that I have made is undoubtedly open to various criticisms, and one criticism which has already been very strongly suggested is that you cannot have members of the same assembly coming in and going out; but if the conditions under which Their Highnesses and the whole of the Indian States come into the Federation—that is, with respect to a limited number of subjects—leaving out certain subjects to be dealt with, as Your Lordship has designated them, as central subjects, I cannot see ow we can get over the difficulty except in the way in which I are made my submission. Therefore, if we are going to have eal and true federation, it should be our design to throw as ma

subjects into the Provinces as possible, and to throw as many subjects as possible into the federal sphere as subjects of common concern, so that there may be left practically nothing which may be called central subjects; and in that we are entirely in the hands of Their Highnesses in the States.

As regards the Executive, I would respectfully submit that there should be only one Executive which is the federal Executive responsible to the Federal Assembly, except with respect to certain matters which have been left out of our discussion at present, which Your Lordship has called Crown subjects. The responsibility will be the joint responsibility and the way in which the Executive should be appointed may be left to the decision of the Governor-General, who will take into consideration various factors in making the appointments, so that the ministry may be stable as far as possible. In case of any serious difference of opinion between the Upper House and the Lower House, it was suggested by my friend Sir Tej Bahadur Sapru—and I entirely agree with him—that there should be a joint session of both Houses in order to get over the deadlock.

All this is, of course, for the transitional period—that is, till we have as I visualise a complete federation. One can quite appreciate Their Highnesses' hesitation in, so to say, taking a leap in the dark; but in course of time, as things proceed, and as we can give satisfaction to all parties concerned, I have no doubt that the central subjects will disappear, and that both British India and the Indian States will pool their resources and evolve a complete system which will be for the benefit of the whole of India.

The question of the residual power—whether it should rest with the Provinces or whether it should be vested in the Centre—is, in my opinion, abosolutely immaterial so far as these points are concerned. That is a separate subject, and that comes only when you come to discuss the question of the powers at the Centre. So far as the Provinces are concerned, we have nothing to do with the question here, but I cannot agree to anything but complete, genuine and real provincial autonomy, with as far as possible no interference of any kind whatsoever from the Centre except in cases where effective co-ordination becomes necessary between two or more Provinces—for instance, in certain matters of higher education. Secondly, I would not allow any interference by the Centre except when it may be a matter concerning more Provinces than one—that is, so far as the internal affairs of the Provinces are concerned I would have no interference at all; in fact, the Simon Commission Report itself says that the interference by the Secretary of State must disappear altogether. Interference by the Centre must be limited, and must be clearly defined in the constitution—that is, they can interfere only when, say, the peace of India as a whole or the peace of two Provinces or more Provinces is jeopardised by one particular Provincial Legislature. Otherwise I would have no interference at all.

Sir Muhammad Shafi: My Lord Chancellor, in order to find the correct answer put by Your Lordship to us under the first head, it is essential, I venture to submit, to emphasise three important points. In the first place, I entirely agree with His Highness the Maharaja of Bikaner in thinking that, in determining what will be the constituent units of the All-India Federation, we must put all communal considerations out of the discussion. This is a purely constitutional problem and I venture to submit that the importation of communal predilections or prejudices can only warp our judgment and cloud the real issue. Communal considerations, therefore, ought to be put aside when deliberating on this problem. In the next place, I entirely agree with my friend Sir Tej Bahadur Sapru that the question whether residuary powers shall be vested in the Centre or in the Provinces is entirely irrelevant to the determination of this question That has got to be decided upon its own merits at another stage of our discussions. In the third place, it is absolutely essential for us to get rid, for the moment, of what I can only describe as our present day mentality. We have got to visualise the stage when the proposed All-India Federation will be complete, and, having visualised that, we have to determine what will be the component elements of that Federation To give only one illustration of what I mean, *one or two speakers during the course of the discussion* observed that the Provinces not being autonomous States could not be the units of our proposed federation Of course they are not sovereign States at present. Had they been autonomous States at this moment, there would have been no need for us to travel 6,000 miles from India to spend months in the bitter cold and fogs of London. The autonomous Provinces and the Indian States would have met in a Conference in India and would have drafted a constitution for the proposed Federation, and sent it up to His Majesty's Government in England so that it might be carried by the British Parliament. It is because the Provinces are not yet autonomous that His Majesty's Government has summoned us round this table in order to solve the problem. Were the provinces of Canada and Australia autonomous when the British Parliament enacted federal constitutions for those two Dominions? Let us take the example of Canada. Before the year 1837 widespread agitation had been carried on for several years in the provinces of Canada for self-government, and there had been several conflicts between the Legislative Assembly and the British Parliament exactly as has been the case in India for the last 10 years. In 1837 this agitation culminated in a rebellion in Upper Canada Lord Durham was sent out to Canada in order to frame a scheme of reform, and what happened was that by an Act of Parliament, passed in the year 1840 by the British Parliament, Upper and Lower Canada were united, and a constitution was framed for the united single province. In 1867, Nova Scotia and New Brunswick were united with the previously united Canadian province, and then the Canadian federation was brought into existence by this Act of Parliament.

Now, a careful study of that Act will show that by one and the same statute two things were done. You will notice that it is the word "Province" that is used in these two enactments. The provinces were made autonomous simultaneously with the bringing into existence of the Canadian federation, and the same thing can be done by the British Parliament now in the case of India, and therefore there can be no difficulty whatsoever in regard to this particular matter.

Coming now to the question now before us. Their Highnesses have made it absolutely clear that they will not federate with British India as it exists to-day. With that view I am in entire sympathy. When a minority Government, foreign in origin, rules over a vast sub-continent like India, for its own preservation it is essential that it should keep the monopoly of power at the Centre. Not only would it very naturally keep control of many subjects which, from the constitutional point of view ought to be regarded as provincial, in its own hands, but it would also keep a close grip over the provinces. But that position would be absolutely inconsistent with the situation which will arise when self-government is conferred both on the Provinces and on India as a whole. The Indian States, therefore, are naturally unwilling to federate themselves with British India presided over by unitary Government as is the position to-day.

Their Highnesses of Bikaner and Bhopal have made it clear that they are prepared to federate only with a Federated British India. Let us examine for a moment what that statement means. It means that British India should first be converted into a federation and its constitution should be such as to make it easy for the Indian States to come in. In reply to a question put by me to Colonel Haksar, who seems to have made some study of the question with which some of us on this side of the House have been familiar for the past thirty or forty years, Colonel Haksar admitted that, in so far as Federated British India is concerned, the constituent units can only be Provinces. That is the only answer that could have been given to my question. British India, having been federated, will have the various Provinces of India as its constituent units. Assuming that Their Highnesses of Bikaner and Bhopal, on being satisfied with the constitution framed for this federation, decide upon entering into it, what will be the position? After their entry the Provinces of India and the States of Bikaner and Bhopal will become the constituent units of this enlarged Federation and, assuming that their example has been followed by the rest of the Indian States (some individually and others in groups), what will then be the position which will come into being? The position obviously will be that the Provinces of India and the Indian States, individually and in groups, will be the constituent units of the proposed All-India Federation.

My Lord Chancellor, that this has been the conception of an All-India Federation entertained by all authorities, official as well as non-official, in the past, is beyond all question. In the year

1904, when presiding over the Indian National Congress at its Bombay Anniversary, the late Sir Henry Cotton observed as follows in this connection:

"Autonomy is the key-note of England's true relations with her colonies. It is the key-note also of India's destiny It is more than this—it is the destiny of the world. The tendency of Empire in the civilised world is in the direction of compact autonomous States which are federated together and attached by common motives and self interest to a Central power. You have already local legislatures, in which a certain measure of representation has been granted to the Indian people. A small concession has been made in this direction, but it is wholly inadequate to meet growing demands. . . . The ideal of an Indian patriot is the establishment of a Federation of free and separate States, the United States of India, placed on a fraternal footing with the self-governing Colonies, each with its own local autonomy, cemented together under the aegis of Great Britain."

This is the ideal placed before the National Congress by Sir Henry Cotton, and that is the ideal which the Indian National Congress has had in front of it, at least until recently.

Seven years later in a Despatch concerning what are known as the Durbar Administrative Changes, the Government of India itself visualised the future of India, curiously enough, in the same language as was used by Sir Henry Cotton in his Presidential address; and afterwards when the late Mr. Edwin Montagu and Lord Chelmsford made their investigation in India and submitted to His Majesty's Government what is known as the Joint Report, they too visualised the future of India exactly on the same lines I read the passage from that Report the other day before this Committee, and now the Simon Commission visualises the future of India exactly on the same lines.

I venture to submit, therefore, that the only possible answer to the question put by Your Lordship to us under the first head is that the Provinces of India and the Indian States, individually and in groups, will be the constituent elements of the proposed All-India Federation.

Some of my friends have shown some concern about subjects which Your Lordship was pleased to class as Central subjects As has been mentioned by my friend Sir Sultan Ahmed, we ourselves visualise a time when the scope of Federal subjects will have been enlarged and when most of the other subjects will have been relegated to the provincial sphere. Only a very small number of subjects will then be of the type contemplated by my friends. For that small number, to create what I can only describe as a third estate is unnecessarily complicating the constitutional machinery, and if we were to create such an estate I am afraid there would not only be complications but sometimes conflicts in the future.

This is not the first time that the British Parliament will be confronted with this problem. What actually is the position in India to-day can be described in a few words. As a result of monumental industry and enterprise, the Legislative Department of the Government of India, presided over now and then by jurists of great eminence, have prepared codes of civil and criminal law, such as the Indian Penal Code, the Criminal Procedure Code, the Civil Procedure Code, the Indian Contract Acts, the Indian Evidence Act, and so forth—undoubtedly accomplishments unparalleled in the history of other civilised countries. I am as anxious as are my friends to preserve the uniformity which has already been achieved. I have no doubt also that occasions will arise in the future when the securing of similar uniformity in regard to future laws will be in the highest degree desirable. But the same problem was before the British Parliament in the case of Canada, and they solved that problem in the very Canadian Statute which created the Canadian Federation. In order to preserve the uniformity which had already been achieved Section 129 was embodied in the Statute of 1867.

Chairman: That is the British North America Act.

Sir Muhammad Shafi: Yes. This is how that Section runs:

> "Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia, or New Brunswick, at the Union, and all Courts of civil and criminal jurisdiction, and all legal commissions, bars and authorities, and all officers judicial, administrative and ministerial existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively as if the Union had not been made; subject nevertheless to be repealed, abolished or altered by the Parliament of Canada or by the Legislature of the respective Provinces according to the authority of the Parliament or of that Legislature under this Act."

This provision secured two things—preservation of the laws already passed previous to the coming into existence of the Union, and authority to the Parliament as well as the Provinces to alter them whenever necessary. We know that even under the present Government of India Act the Provincial Legislatures have authority, with the previous sanction of the Governor-General, to alter or amend any of the All-India Statutes passed by the Central Legislature. In so far as uniformity of future laws was concerned, the British Parliament enacted Section 94 in this Statute of 1867. This is how that Section runs:

> "Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the courts in those three Provinces; and from and after the passing of any Act in that behalf, the power of the Parliament of Canada to make laws in relation to any matter

comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted,"—and I invite the attention of Their Highnesses in particular to what follows—"but any Act of Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof."

The last portion of this Section embodies the suggestion which I myself had intended to make to Their Highnesses. If the Statute now to be passed by Parliament embodies a provision like that, the difficulty which Their Highnesses are feeling is thereby removed. The Federal Parliament will have the power to enact laws where uniformity is essential for the whole of India, but those laws will come into operation in Indian States as well as in the Provinces on enactments in the Indian States and in the Provincial Legislatures being passed conforming to those laws I venture to submit therefore that, by adopting these two provisions, the difficulties which my friends here have felt, as well as the difficulties felt by Their Highnesses, will be removed That is the solution, I venture to submit, in so far as this particular matter of uniformity of laws is concerned.

Coming now to the second head, I agree with my friend Sir Sultan Ahmed that the Federal Legislature must be bicameral I also agree that in so far as the assembly is concerned, the election to it must be direct—representation must be by direct election so far as British India is concerned. *We have nothing to do with the* manner in which the Indian States send up their representatives to the Legislative Assembly or the Upper House Personally I cannot approve of the recommendation by the Simon Commission that representation to both Houses should be indirect In so far as representation in the Upper House is concerned, I agree that it should be indirect; that is to say, the Provincial Legislatures should elect the representatives for their representative Provinces instead of such representatives being elected, as they are at present, direct by the voters themselves. I am also of opinion that it would be advisable for the Indian States to come into both Houses. The result would be stability of the future Federal Government of India They would then exercise a powerful influence in both the Houses, and would thereby influence legislation in the right direction. Whenever there is a conflict between the two Houses there would then be a joint session, and the vote of the majority would decide the particular point before the Legislature. In so far as the Federal Executive is concerned, I agree that, accepting what Your Lordship has designated as Crown Subjects in relation to which a reservation must be made for the transitional period, the Federal Executive should be responsible to the Federal Legislature.

These are my humble answers to the three questions put to us by Your Lordship.

Sir B. N. Mitra: Generally speaking, I find myself largely in agreement with, if I may say so, the eminently business-like views

placed before us by Sir Sultan Ahmed. On the first question—the component parts of the Federation—there is but little doubt that these should be the Indian States and the Provinces of British India. We may have to provide for certain tracts in British India which at the outset will not attain to the full stature of a unit and would correspond to a territory in Federal Governments of other countries. The constitution itself should provide for the entry as full-fledged units of tracts of British India like, for example, Baluchistan which may not be accepted as a full-fledged unit at the outset or which may not agree, in the case of Indian States, to come in as a unit. It must also be recognised that the powers with which the Federal Legislature and Executive will be entrusted may be different in the case of the Indian States and in the case of British India; that is, there may be some Central subjects in addition to the All-India Federal subjects, though our efforts should be to reduce the distinction as far as possible; and the arrangement to which reference was made by Sir Muhammad Shafi will help us to a large extent to reduce the difference. At the same time I think the constitution itself should provide for larger delegation—I use that word because Their Highnesses prefer it, and it is the word used in the constitution of Switzerland—of further powers by the Indian States to the Federal Government, and on the other hand for the delegation by the Federal Government to the Provinces of additional powers.

I am calling the Government Federal, but in the first case it must be by arrangement, of the sort envisaged by His Highness of Bikaner. It may have to be done through the Crown. In the other case that arrangement will not be necessary.

Chairman: I want to be careful about this, because it is no use my saying that I follow it if I do not. You think we ought to provide for delegation by the Indian States of further subjects to the Federal Government, and a delegation by the Central body as distinguished from the Federal body, to the Provinces of further subjects?

Sir B. N. Mitra: That is right.

A Member: Not federal.

Sir B. N. Mitra: I call it the Federal Government because I am in agreement with Sir Sultan Ahmed that the Government should be one and the same and that there should not be a Federal Government and another Central Government.

Chairman: I agree. I see what you mean, but I want to be quite clear about it. Assume for the sake of argument that Their Highnesses were to delegate a subject, which for the moment we will say is subject A, to be dealt with by the Federal body. We will not discuss for the moment the Chambers. Do you mean that there should be power in the Federal Government to delegate to the Provinces something which the Princes have ceded to the Federal Government?

Sir B. N. Mitra: No, Sir The two things are different. In fact my object was that eventually the powers of all the constituent units shoud be the same.

Chairman: I follow.

Sir B. N. Mitra: Questions may arise about whether and where the interference of the Federal Government (I shall go on using that expression) may be necessary in the case of the units. Cases may arise of a dispute between one unit and another. (I may use the word there " inter-State.") There the Federal Government should have some power—some definite power of interference and control; because somebody has to settle that dispute

Chairman: Forgive me asking you questions as you go along.

In Canada, where questions of that sort frequently arise, a dispute—we will say—between the Dominion and the Provinces, as to which of them is entitled to a particular jurisdiction, is referred to a tribunal, the Privy Council

Sir B N. Mitra That may be the precise machinery

Chairman: I was not going to suggest that you should have a Privy Council. What I was going to suggest was this Was it your idea that in a case like that some Court should be established to decide that dispute?

Sir B. N. Mitra: That is precisely my point; there may be a Supreme Court of the Federal Government which should decide matters of that sort. There may be other matters in which a certain amount of co-ordination may be necessary, but not control, and here I come back to the point which Sir Muhammad Shafi dealt with the other day, that is State labour problems I was myself discussing the question of State labour, because in that case the units of the Federal Government will be the employers, and there- [illegible] Government [illegible] or whatever [illegible] aware of the case of Canada, where I think the Privy Council held that the position was that in the case of railway labour it was a Federal subject, and that labour problems were also Federal subjects, but that questions connected with other labour were State subjects.

Then, on the other hand, when we deal with labour questions in general I hold that they should be State subjects—not Federal Central subjects, but State subjects; that is, Provincial subjects.

Mr. Joshi, I think, referred the other day to the present position where the subject is reserved, and he said that if it ceased to be reserved it must be Central, otherwise how is the Centre going to assure itself that certain action is being taken. I submit to you, Sir, and to all my friends who know about the conditions in India, that if the State attempted to pass an All-India legislation covering, according to Mr. Joshi's idea, the Indian States, and then to establish the necessary machinery to see that the legislation would be enforced, it would become an impracticable proposition. The Federal Government would have to have its agents interfering with

administration in almost every part of India. Further, I fail to see how certain matters connected with legislation dealing with labour can be dealt with differently from more important matters which fundamentally affect labour. I am referring to education, sanitation, housing, etc. If those things cannot possibly be dealt with from the Centre, and must become subjects to be dealt with by the units of the Federation, I do not see what advantage can be gained by dealing with things like, say, sickness insurance or similar matters as a Federal subject, the implication being that the Federal Government must find the money required to give effect to the measure, and one effect of that would be that progress would be largely retarded, because while a particular Province would have sufficient money to introduce a measure of labour welfare, another Province would not have the money and the Federal Government may not be in a position to provide the money. The result would be that a very important measure concerning the welfare of labour may be definitely blocked until it was possible to get uniform progress all over India. We do not envisage uniform progress in other nation-building matters like education, sanitation, and public health, and I fail to see why there should be any other uniformity in certain other matters relating to a particular group of the community. So far as I know, it is not allowed in other countries which have adopted a federal system of government. It does not hold good in the United States. An attempt in Switzerland some years ago to have a federal law was ruled out as the result of a referendum. Here, I would say, should come in co-ordination: that is, apart from legislative and executive bodies of the Centre there should be co-ordinating bodies. The Minister of the Centre who deals with, say, labour or, for the matter of that, education, would have a standing Conference presided over by himself, including representatives of the various units and including the Indian States. They would discuss important matters of policy, and they would come to certain conclusions, and thereafter each Minister would go back to his unit, it may be an Indian State or it may be a British Province, and then attempt to get the measure through. That is my idea of co-ordination in which a future Federal Government, according to my idea, should play an important part. It would mean control over the various activities of the federated units in various matters relating to nation-building similar to those which are in existence in Canada, in Australia, and also in the United States. I think Lord Lothian the other day referred to the Inter-State Commission. I think, under the Geneva rules, all that is necessary is for the Governments to bring matters to the notice of the units of the Federation and leave them to take necessary action. That, I think, is the procedure, and the co-ordinating Board will be able to exercise some useful—I should not say control, but some useful co-ordination in the matter. As a matter of fact the position is very fully explained in a book by Mr. Woodrow Wilson.

As regards the composition of the Federal Legislature, as I have said, I am in agreement with Sir Sayed Sultan Ahmed that there should be two Houses, and in both of them I should prefer that the

States should be represented. Federal States representatives should take part in the deliberations, and decisions on matters in which the States are not affected I should leave over for final decision until we find whether the difference between the Federal subjects and the Central subjects is likely to be considerable. If Mr. Joshi's suggestion is accepted, I am inclined to think that the differences will not be considerable, and in any case will not be of material importance, and if that is so I would not mind the State representatives taking part in the discussion relating to those particular subjects if, of course, Their Highnesses have no objection

What I have said about a provision being made for delegation of further powers to the Provinces will probably solve the difficulty about this question of residuary powers. As Your Lordship, I think, said on the first day, the matter is not one of any great importance, and Sir Muhammad Shafi also has referred to that aspect of the case Once we turn to the separating of the subjects as fully as possible and also to laying down matters like law and order, in which the residuary power in regard to the States in British India would have to be used for quelling disturbances, I do not think that matter from a practical point of view should cause any difficulty.

Sir Sultan Ahmed: May we enquire about law and order? Law and order is a Provincial subject

Sir B. N. Mitra: I quite agree it is a Provincial subject. It may be considered to be a subject in which residuary power will be less in the Centre. In the Canadian constitution there is a provision by which the Federal Government is in the last resort responsible for the maintenance of law and order.

Mr. Jinnah: No, not law and order—maintenance of peace and tranquillity.

Sir B. N. Mitra. I am not expressing the actual words If it is "peace, tranquillity and good government" that will quite satisfy me

Chairman: That is my recollection of the words, but do not take it from me.

Mr. Jinnah: It is Section 91. That is nothing to do with law and order.

Sir B. N. Mitra: "Peace, order and good government" are the words.

Sir Muhammad Shafi: That is opposed to the Australian and United States constitutions.

Sir B. N. Mitra: The only other point is what Your Lordship at an earlier stage called Crown subjects, how these subjects are to be dealt with by the Federal Legislature. I do not want to say anything at present on those subjects When those subjects come to be discussed I will perhaps be permitted to say something on them.

Sardar Ujjal Singh With regard to the first head, what may be the component parts of the Federation, I do not see how British

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correct, if I am not wrong, of Australia and Canada. In Canada there was no such thing as the Central Government, and there was no such thing as the Central Government of one Australia as a whole. I may be corrected. In 1791 the two Provinces were separated, the Quebec Provinces, and in 1841 it was by a process of federation that the two Provinces were united, but the maritime Provinces were left alone, and it was in 1867 that the whole federation was created.

Mr. Jinnah: The Central authority with regard to Australia and Canada was the British Parliament, and the Central authority so far as the whole of British India is concerned is still the British Parliament, and the Government of India is merely the agent. That is the answer.

Sardar Ujjal Singh: That is quite true, but it is different in that way.

— *Mr. Jinnah:* Fundamentally it is the same

Sardar Ujjal Singh: I realise that fundamentally it is the same. The British Crown and the British Parliament was the final authority, but in the cases of Australia and Canada, that final authority, the Government administration, vested in the independent Provinces—different Provinces—and there was no co-ordinating authority in Australia itself or in Canada itself, whereas in India we have got the Central Government which is the co-ordinating authority in various Provinces. So I say if we differentiate the Federal subjects and the Central subjects, we will be in a better position to know what would be the powers of the Provinces, and in whatever powers

Provinces would be autonomous

powers the Central Government

over the Provinces Then those Provinces federated in that particular way to the States on the other side would form the units of the federation It would then be seen what should be the authority that should control those subjects which remain Central subjects, and for that authority I would agree with Sir Bhupendra Nath Mitra that there should not be a separate Central Legislature but that there ought to be one legislature at the Centre which might be called the Federal Parliament, but it will certainly consist of two portions, a portion dealt with by the representatives of British India—that is the Provinces—and that portion will deal with subjects concerning the Provinces alone and with subjects which are not the concern of the whole of India, including the States, but in the case of Federal subjects, the Parliament as a whole, the Lower Chamber and the Upper Chamber as a whole, including the States representatives, will exercise their powers. The Provinces will continue to send their representatives to the Lower House by direct election; the people would directly vote for election to the Lower House as they are doing now, but in the case of the Upper House indirect election might be resorted to which would mean that Provincial Legislatures elect representatives to the Upper House.

The question of the responsibility of the Executive would be very important, and I agree with other speakers that there ought to be one Federal Executive and responsible to both the Houses.

Of course the suggestion is very pertinent that if there is any deadlock a joint session of both Houses should settle those questions.

Mr. Jayakar: My Lord, I am grateful for the opportunity you have given me to express my views on these important questions which have come up before us, but I will try to avoid making a speech which would incur the danger that it may be said that we are making speeches dealing with independent positions.

I submit that the remark of Their Highnesses that they will not federate with present-day British India is misinterpreted. As I understand Their Highnesses to mean, they will not federate with British India as it is at the present moment subject to the Central Government. It does not mean what some previous speakers have assumed Their Highnesses mean by that remark, either that the Provinces will be units of the same sovereignty as the States will be, or that the tie between the Provinces as a unit to the Central Government or some government will be of the same character as the tie between the States and the Federal Government. As I understand the remark, it merely means that Their Highnesses will come into the Federation after British India has federated itself, but I do not think they mean that the units in British India must federate on the same sovereign basis as the States will federate with the Federal Government. Therefore I submit it does not follow that Their Highnesses desire what is entirely a problem and what His Highness the Maharaja of Bikaner said is entirely a problem for British India to settle. I think it would be somewhat dangerous. There is no analogy between the looseness of the tie which will federate the States with the Federal Government and the compactness of the tie which will federate the Provinces of British India with the Federal Government. I am not generally led by the analogies of other countries. We have been told a great deal of what has happened in Canada and Australia. Speaking about analogies, I beg to draw attention to what is at present the most important feature of our constitution, namely, that there was nobody like the Government of India which had worked in the country for 150 years to produce a common opinion, but with all the defects of the Government of India it has resulted in producing in the country a large mass of common opinion, uniform opinion about many things, like commercial law, like marital rights, like commercial propriety, like bankruptcy legislation. I am anxious, as a practical person, not to lose the benefit of all this uniformity which has been produced in British India, by the Government of India legislating merely for the sake of the analogy of Canada or Australia. That does not very much appeal to me.

Of course, I am quite willing to take from the circumstances of Canada and Australia any analogies which may be useful, but for the sake of mere analogy with these constitutions, if it means giving up the great benefit of a central legislature on all important ques-

tions like commercial law, like bankruptcy, like marital rights, I am not prepared to give that up

To come to details, I do not wish to obscure my vision by talking of the ideals about which Sir Henry Cotton spoke, or about which some other member of the National Congress spoke. These are ideals which I envisage, but I am not concerned with ideals at the present moment, I am more concerned with the stage as to how this federation shall begin. I am more concerned with that just now. Of course, I see as clearly as Sir Muhammad Shafi does an India where all these central subjects will form a scheduled group. There will only be two schedules, one Federal and the other Provincial, but that time is yet far away, and I wish to consider in the meantime the list of what you, Sir, with such clear precision called central subjects, and I am not prepared to give up that list at the present moment.

I think, therefore, as I envisage it, it will be this process. If British India will federate, it will federate on a tie which is far more compact and closely knit than the tie on which the Princes will federate, when British India has federated; and there is no analogy—I submit that the analogy is very dangerous indeed—between the looseness of the tie on which the States will federate with the federal government, and the compactness of the tie on which the Provinces will federate with the central government When this has been done, as His Highness the Maharaja of Bikaner sounded with such clearness—they do not want to federate with British India at present—that they will federate with the federated India. I do not want to waste any words, because I do not think the fear is sound that India will always act as one bloc I do not share that view. When it comes to working, the Provinces of India may sometimes go against the other Provinces, and in close formation with the Indian States which are juxtaposed to them. For instance, the Southern Provinces may act in complete uniformity with the Southern States rather than in conformity with the Northern States This is a matter in which the geographical connection will play a much more important part than the distinction between States and Provinces. I am not, therefore, afraid of what some of their Highnesses sounded a note of fear about, that there is likely to be a bloc of British India on the one side and of the States on the other. Therefore my submission is this, that we must get away from words It is no doubt true that the component parts of the Federation will be the States and the Provinces, but so far as my humble view is concerned I wish to make it perfectly clear that, to my mind, it does not convey the necessary inference that the ties will be the same in one case as in the other.

Then, coming to the question of residuary powers, to which reference was made by Sir Sultan Ahmed, I see that for some time yet you will have to put into the hands of the central government a certain power I quite agree with the view that the practical importance of this question would be considerably reduced if we sat down and put under two schedules the provincial and federal

questions. I think it is possible to reduce to practically a minimum the difficulties to which the consideration of this question will give rise, but at the same time, as Sir Sultan Ahmed rightly pointed out, it is inevitable that for some time at least a certain power of co-ordination must be provided for. I do not agree with him that it would be restricted to differences between two States. I go further, and say that it may be even extended to other cases; but I do agree with him that you have got to give into the hands of the central government a power of co-ordination. I remember the other day talking of certain rights of minorities. They are going to suggest that the authority which is concerned with legislation affecting the rights of the depressed classes may be left in the hands of the central government. I do not wish to be dogmatic, but so long as it is agreed that for some years at least the power must be left in the hands of the central government to control legislation and other things in the provincial governments, you can attenuate this power as much as you like. For instance, I was going to suggest a point on a matter to which reference has already been made. I can conceive that for certain purposes, for instance, labour will insist on a power of revision in the central government. I cannot see, at the moment, how the provincial government will deal with certain problems of labour, and the central government will deal with certain other problems of labour. I am not going into details of this question, but I agree in the main that the practical way of getting rid of the difficulty will be to have two as complete lists as possible. There is a third variety in which, whether you call it residuary power I am not sure or not, all unforeseen events which cannot be anticipated by human ingenuity, and which therefore cannot be put into one schedule or the other, you must place the power somewhere. After all, our ingenuity is limited; we cannot anticipate all the events that will happen in the further evolution of India. That power will provide for unforeseen events, contingencies arising which you have not been able to anticipate. Whether you call that a residuary power I do not know; but that power will have to be provided for, and in certain constitutions it has been provided for, and the best way to do it is to place it, in the peculiar conditions of India, for a few years at least in the central government.

Then, Sir, coming to the Houses of Legislature, I am in complete agreement with what was said by Sir Sultan Ahmed. There must be two houses at the Centre. I am also in complete agreement with him that the Indian States' representatives may sit in both Houses, and I would make an appeal to some of Their Highnesses, who have somewhat different notions on this point, to let their representatives come into both the Houses. I fear that there is a feeling that the States' representatives who come into the lower house are afraid of a democratic contact with the representatives who come into the lower house. I would ask Their Highnesses to think very seriously whether it would not be an advantage that their representatives should come into the lower house also, because I have a hope that in the evolution of things the lower house will retain much of its democratic character, perhaps more than the upper house will, and

I am particularly anxious that in this house of initiative, as it will be for most important things, Their Highnesses' Representatives should be present. As to the basis on which they come into the house, I would suggest, Sir, a population basis as the safest of all. I do not want to go into these details at present, but I certainly think that the States' representatives should come in on the same ratio as for the population of British India; and so they can come

I do not want to go into other details at the present moment, but *one point before I conclude I will just touch upon* As regards deadlocks, suggestions have been made that the two Houses should sit together, and I quite agree with what Sir Sultan Ahmed said, that there should be one executive for the whole of India I am not quite clear in r r, whether on topics which, n central for some time yet, vote. As at present advised I think they should not vote, because I agree with His Highness the Maharaja of Bikaner that it might create considerable complication if we gave to the representatives of the Indian States the power to dabble in questions which are purely British Indian, and I think, in the interests of the States themselves, they should keep out of this conflict which is in British India I personally think that it would be much better if they were not allowed to vote on questions which are purely British India in their character, and for their sakes I would most submissively suggest to the States that they should keep out Whether the suggestion would be that of walking in or walking out, should be adopted, that is not a matter of insistence on my part It may be a question if they do not wish to walk in and walk out, which sometimes in India, I think, having regard to peculiar political circumstances, is sometimes a most extraordinarily theatrical performance, the session might be so arra ween certain dates, an and then the States' That is a matter on which I do not want to pronounce a dogmatic opinion I would only say before I conclude that Section 94 and another section to which reference was made by Sir Muhammad Shafi in his interesting speech, do not provide what would have to be done in case a particular province did not adopt the legislation which was passed by the federal government *I reserve to myself the liberty* of considering, when you go into details, as to how far the two sections to which Sir Muhammad Shafi referred would provide for the difficulties I have in view—namely that the central government must have the power of legislating on questions where uniformity has prevailed—for instance, commercial law, marital rights, bankruptcy, civil and criminal procedure, and so on—whether these two sections to which he referred meet all the difficulties and all the dangers which I have in view, in still putting that power in the hands of the central government for a few years more. Whether these two sections will meet that difficulty, I cannot say without further consideration on that point; but I do think at first sight, that that section does not provide for the possibility as to what

would happen in case a particular province did not adopt the legis-
lation which was passed at the Centre.

The only thing that now remains for me to say is as to what you mean by the Crown subjects. At present you have excluded them from the consideration of this meeting. Whether it means that these subjects will be removed from the consideration of the Federal Government, or whether they will be able to deal with them after a period of five or ten years, subject to safeguards—whether for that short period the Federal Government will not consider them, that, I submit, ought to be made clear. If it is merely a question of a short period, five or ten years, when they cannot be considered by the Federal government—questions of defence, and so on—then you will find more agreement amongst us.

Sir Muhammad Shafi: Do you mean the Federal legislature or the Federal government?

Mr. Jayakar: The Federal legislature; but if it means that they will be either perpetually or for a very long period of time remove[d] from the consideration of the Central legislature, then we shall hav[e] to offer our opinion on that point. I am quite agreeable that wit[h] regard to the defence, proper safeguards may be devised. So o[n] that point, when you said it should be removed from the purview [of] the Central legislature, if it is only for a time limit of a short perio[d] we shall agree.

Chairman: I should like to say a few words, if I may, [in] response to your invitation, because I think it is only right tha[t I] should do so. Personally I feel very very strongly—what I thi[nk] everybody here is agreed upon—that we should have what, for t[he] moment, I will call a unitary federation of British India. I thi[nk] it would be very, very unfortunate to have two bodies, one f[or] British India and another for the Federal Body, and I will tell y[ou] why. First of all, from a practical point of view it is extrem[ely] difficult to have two bodies with two executives at the Centre, a[nd] so forth: it makes it almost impossible to work; but I have a f[ar] stronger reason than that personally. I do not want always to [be] saying it, but I am an idealist, and I want one great, homogeneo[us] India as far as we can possibly get it. As I said, I say again, [I] do not think in terms of British India and I do not think in ter[ms] of the Indian States: I think in terms of India; and I think [it] would be very unfortunate to start off with to have British Indi[a,] so to speak, in a separate pen, all by itself, dealing with its ow[n] subjects with a separate executive, with a separate legislatur[e.] You are only going to accentuate your age-long differences, whi[ch] we want to do away with. Therefore I am so very glad to see th[is] general consensus of opinion that we should have a Federal Asse[m]bly for India. It is quite right, as you have so well put i[t,] Mr. Jayakar, that later on it is a matter of detail as to how w[e] shall just let the British India representatives in the Feder[al] Assembly deal with these central subjects, which I quite agree wit[h] you in saying that we must keep in a very separate category [at] present, much as I hope that they will eventually go into th[e]

Federal subjects. Therefore I think that on that we have
general agreement. I am sure of this, that it is the right line.
do not want at the very beginning to mark this separation be
British India and India What we want, as far as possible,
have us all together. Another thing I feel very strongly abo
that we should have two Chambers—that is to say, an Upper Ch
ber and a Lower Chamber I do not say a word with regard
representation at present, although I think it is only fair tha
should tell you what is in the back of my mind I prefer dir
representation for the Lower Chamber With regard to the Upp
Chamber, it may be another matter. I will not discuss that
present. The next thing is this It is because I hope so much t
get a unified India, and India speaking with one voice and making
its voice heard, that I very much hope that the Princes will come
into both Chambers, or that their Representatives will, because the
more we get together and the more we get to understand each other
the better it will be, and therefore I am in entire agreement first of
all with what I call the unitary system of federation not the double
executive, not putting people into one pen, and so forth, looking with jealous
eyes at the people in another pen. and so forth, and therefore I
think I may say that upon that we are in very general agreement
We will draw up a Report in that sort of way for your consideration
in a day or two, what I call a unitary federation, with the one
executive, with the bicameral legislature with a hope that the
Princes will come into both But now with regard to the last ques-
tion which you have so properly raised, and which I am most grate-
ful to you for raising, what I call the reserve subjects, with regard
that point I want to speak rather slowly, because it is a little
difficult to express one's meaning Personally I think it would be
a mistake to withdraw all the reserve subjects altogether from the
purview of the federal legislature I simply mention it here, and
you must not think that I am expressing any final opinion because
there are difficulties—though there is no difficulty that we cannot
overcome—but just take some reserve subject without in any way
putting a particular subject. you can call it reserve subject A
Now, I am not for the moment touching upon the question whether
reserve subject A should be reserved for five years or seven years or
ten years; that is a matter which we shall perhaps have to come to
later on; but at any rate it is a subject which is for the moment on
the reserve list I think it would be extremely unfortunate if the
Federal Assembly never had a chance of saying something about it,
because if your argument is right that in due course of time that
reserve subject will gradually, in five or seven or ten years—I am
not putting any term of years upon it—come into one of the federal
subjects, if I may so call them for the moment how ridiculous it
would be if, after ten years, never having had a word to say upon
it, it suddenly became a federal subject—why the whole object of
is, in a thing which is growing like this. I agree with you that
analogies and metaphors are dangerous but if you never talk to
ur sons and you never talk to your young men about the respons-
ility that they will some day possibly have to take upon their

shoulders, they will never be able to take it upon their shoulders. On the other hand, I do think this. Let us take reserve subject A, and let us assume, for the sake of argument merely, that it is going to be reserved for B years; I do not want to put any figure on it at all. I think it would be a grave misfortune if that reserve subject should never come up for discussion in the Federal Assembly or in the Federal Lower House; but, on the other hand, what I think about it is this, that if for the moment, or for B or C or D years, you are not going to have a final say upon it, you will want to hear the opinions of those who, for the present at any rate, have to do it, and they will also want to hear your opinions; and therefore it may be necessary to make some provision—and I am only talking very generally now—and we may have to consider how far, in addition to the representatives of the Provinces and in addition to the representatives of the Princes, somebody should come in order to say what is being done in regard to the reserved subjects. I will say reserve subject B; I am not giving it a name at present. Well, I do not at all say that anybody who came—do not misunderstand me; I have nothing farther from my mind than an official bloc; I rule that out at once; but it may be necessary to have one or two official people there, in order, if you will let me put it quite briefly, that you can cross-examine them with regard to a particular subject. Take, for example, the Army. The Army, if I remember rightly,—you will correct me if I am wrong but I cannot carry everything in my head—is a non-votable subject, but at the same time you do express your opinions upon it.

Mr. Jinnah: A certain very small allowance is voted, and it is on that that we are entitled to speak to it.

Chairman: All I want to do is, I am most anxious at the time when we are giving very large and extended powers to a federal body, not to take away any right and power you have got at present, and we must therefore, in your own interests, take care that some provision is made to give you the right to discuss and to hear, and all that sort of thing, in the same way as you have it now on the Legislative Assembly with regard to those reserve subjects.

Sir Muhammad Shafi: If I may add to what Mr. Jinnah said just now, I think that here also members are entitled to express their opinions.

Chairman: All I want to say is this. I think it may be necessary in your own interests. It is a matter of detail. I only raise it now because I do not want somebody afterwards to say "Well, you never made any provision for that, and therefore we cannot consider it". I think we shall all be agreed upon that. It is a mere matter of detail and I am much obliged to you for raising it, because what was in your mind was obviously also in my mind. It is a matter which we can discuss later on more fully. I think you wanted to say something about Section 69, did you not, Sir Ramaswami?

Sir C. P. Ramaswami Aiyar: I have perused Section 94 of the British North America Act of 1867.

Chairman: The note you sent up to me was about Section 69. You mean Section 94, do you?

Sir C. P. Ramaswami Aiyar. Yes, to which reference has been made by Sir Muhammad Shafi. There are three points which have emerged from the discussion—firstly that there is a general disinclination to treat the Provinces other than perfectly competent to deal with all their internal affairs At the same time there is a feeling that in certain matters uniformity should be secured That has been done in other Constitutions I do not propose to make a speech at this juncture; I wish only to deal with some of the devices which have been adopted elsewhere, especially in countries where for some time there has been unified legislative and administrative action, and a federation has thereafter ensued Take for instance the constitution of the German Reich The Reich has exclusive legislative power in regard to certain matters That is under Article 6 of the German Constitution of 1919 It has legislative power concurrently with the Provinces. In certain other matters it has legislative power Where there is need for the issue of uniform regulations, the Reich has certain other legislative powers, and finally the Reich can lay down fundamental principles governing certain rights. That is under Articles 10 and 11 These fundamental rights are to be implemented by local legislation giving the utmost possible liberty to the local legislatures to modify the application of these fundamental rights in so far as they may become suitable to local conditions The way in which co-ordination is obtained is by Article 12 So long and in so far as the Reich does not make use of its legislative power, the States retain that power for themselves; that is, that the States are, in many matters in which federal legislation is not considered indispensable, to that extent absolutely free to exercise legislative power; and concurrently with it, in order to assume and bring about a certain uniformity, [illegible]
powers.
dealing [illegible]
vinces.

The Republic of Austria has done the same thing in a Constitution dated 1920. Under Article 10, legislative and executive powers in regard to the following matters is vested in the federation Then Article 11—this is a most important Article, and I commend it to your special notice—says "Legislative power shall be vested in the Federation and executive power in the Provinces in regard to the following matters." That is, where you want a certain amount of legislative uniformity, and at the same time you give complete executive and administrative authority to the Provinces, that is provided for in certain Articles under Article 11.

These are the matters which I thought might be borne in mind in dealing with this question

Sir Samuel Hoare.—Lord Chancellor, I always hoped that you would express the views of the whole British Delegation, but I hoped much more that you would express the views of the British

and the Indian Delegations. I am inclined to think—it is my own opinion—that what you have just said does certainly express the general views of the great majority of the members of this sub-Committee, both British and Indian, and I have scarcely anything to add to what you have just said. I would only like to make—I will not say reservations, but two small points in connection with what you have just said. I agree fully with what you said about the unitary system of federation and about the Two Chambers. I think, if we had been working upon a clean sheet, I would have said that probably the most efficient form of Federation would have been by a single Chamber, but I quite realise the history that is behind the problem, and I do not myself believe that in present circumstances it would be possible only to have a single Chamber at the Centre. When you come to the Lower House, you said that your view was strongly in favour of direct representation.

Chairman: If possible.

Sir Samuel Hoare: Direct election. Thereon I should like to put in this personal caveat. I am not in the least prejudiced against direct election. Indeed, anybody who has fought a great many elections and has been elected time after time by direct election could not very well take that line: but I do need to be convinced that in a comparatively small Assembly and it seems to me the Assembly must be comparatively small, otherwise anything in the nature of joint Sessions between the two would be rather in the shape of a farce—it is possible, with an area geographically as big as India, to have by means of direct election any real contact between the representative and the constituency. That is all I wish to say this morning on that point.

A further point upon which I should like to say one word is in connection with the very valuable suggestions which were made about, what for want of a better phrase I will call the representation of the Crown in the Federal organ. There again I should like to reserve my opinion until we have gone further into the details. I feel myself that in some shape or form, the Crown both in the interests of the Empire and equally in the interests of India, will have to be represented. I do not mean by that that I have anything in the nature of an official bloc in my mind, but I do think some definite and effective representation will have to be considered, and I should like to reserve my opinion until we see the details.

Sir B. N. Mitra: There is only one point I want to make at this stage: it is in regard to control of the Federal Legislature over army matters; I intend to say this in order to remove misapprehension, if there is any, in regard to this subject. Under the existing constitution legislation which may affect the army comes within the purview of the Indian Legislative Assembly: but that is not reserved, and it is subject of course to certain general conditions enumerated in Section 67 of the Government of India Act. In fact, to give a concrete case, two years ago the Legislative Assembly threw out the Bill of the Government of India which was intended for the purposes of creating an Indian Navy.

In regard to administration the actual powers of the Legislative Assembly are more limited than in the case of many other subjects. Under the present constitution of course the Executive at the Centre are not responsible to the Legislature but the Legislature has the power to vote money required for the service of the various departments and to exercise a certain amount of pressure on the Executive. That pressure in the case of the army is even less tangible than in other cases because in the case of military expenditure proper it is
not votable The amount is 55 cro
55 crores. There is a general disc
discussion on the votable portion of
Legislative Assembly year after ye
the military policy of the Govern
votable portion, and the Governor (
the position. Therefore it is not correct to say that in regard to the army at present the Legislative Assembly has no Legislative powers. That is the only point I wanted to bring out at the present moment.

As Your Lordship said, we shall have to discuss these subjects perhaps in the course of the next few days, and then I may have a good deal more to say on the subject of the arrangements to be made for the administration of the defence forces and also in connection with the expenditure connected therewith I do not want at the present moment to take up time in dealing with that matter. my own views broadly coincide with yours, Sir, in that for the transition period the Governor General should be given the power of appointing one or more official Ministers who will come into the Legislative Assembly and act as the spokesmen of the Government; but I do not want to develop that point at the present moment

Sir Tej Bahadur Sapru: Your Lordship has, in the course of the discussions that have proceeded in the Committee during the last few days, time after time sought to impress on us the importance of the idea which is engaging our attention You have warned us several times that we should not think of British India and Indian India, so much as we should think of the whole of India. With that point of view I may respectfully say that I am in entire sympathy. Indeed, the whole idea of federation is to my mind,
far nobler and a far
and full of possi-
in their entirety
at the present moment It is from that point of view that I shall *present considerations to you, Sir. Let me at the outset say that* I am not one of those who would like to sacrifice the immediate future for a very distant and unattainable future. I personally believe that we are working up to a future within easy reach, and when that future is reached we shall find an absolutely different India, an India absolutely self-dependent and self-reliant, with a constitution fully equipped, and a constitution which will enable India to meet all possible contingencies as time goes on. Now, Your Lordship has during the last week been able to prepare tentatively a list of federal subjects, and if we look into that list I think the first thing that strikes one is that it by no means ex

on the side of moderation. It is a list of a fairly large number of subjects which to my mind should not startle anyone when we bear in mind that the objective that we have in view is a real federation and not a sham or paper federation. It may, however, be urged that although the list is fairly large, the position as to administration or as to the control of a Central or Federal authority is not quite clear, and speaking on this matter I will make an appeal to Their Highnesses and to their Ministers to make the position a little more clear. It is not enough for the purposes of a real federation that we should have a large and comprehensive list; what is also necessary is that the position as to the ultimate control of the administration of those subjects should be more definitely defined; and in that respect I must say I should like more satisfaction to be given to us in more clear and unambiguous language as to what is the provision to which we are asked to agree in regard to ultimate administration and control of those subjects. The next observation that I would venture to make at this stage is that your Lordship has kept out of the list of federal subjects something like four or five which for the sake of convenience you have been pleased to describe as Crown Subjects. I will briefly enumerate them; they are: first of all defence of India; secondly, the external relations, including naturalisation of aliens; thirdly, relations with the States of India; and, fourthly, political charges.

Now I should like the position with regard to the defence of India to be more clearly defined. It is true that we contemplate an examination and an investigation of the subject by an independent Committee; but the subject is so closely allied with the entire subject of the constitution that it is impossible for anyone speaking on the federal constitution not to refer to the question of the defence of India. I can quite understand a temporary arrangement being arrived at to the effect that so far as the defence of India is concerned it shall not be, during the period of transition, subject to the control of the Legislature. But it is one thing to speak of an arrangement of that character and quite another thing to say that it will be an extra federal subject. Speaking personally, I should like it to be recognised at once as a federal subject, though, for the period of transition, the control may be in the hands of the Viceroy, or a special machinery may be set up for that. Similarly with regard to foreign policy I see absolutely no reason why we should hesitate to include it in the list of federal subjects, though as a temporary expedient we may hand it over to the Viceroy for the purpose of the administration of that subject. Then the third subject which has been characterised by you as a Crown subject is relations with the States in India. Personally speaking I think if the Indian States come into the federation in regard to such a large number of subjects, the whole point of view with regard to the relations with the States in India will have to undergo a very material change. To be absolutely clear: The relations with the States in India will only mean those relations with the States in India which are outside the federal list of subjects. For instance, in matters of dynastic succession or in matters of mis-government

in any Indian State at the present moment the Governor-General or the Viceroy, as the representative of the Crown, exercises certain powers. It is not necessary from a legal or constitutional point of view to examine the sources of those powers. Whether they arise in treaties or whether they arise under what is called usage and practice, to which the Indian States take so much exception, or whether they arise in the exercise of the power of paramountcy, to which again exception is taken, is not really a question on which I propose to make any remarks. The fact is that the Viceroy does exercise certain powers How are you going to correlate those powers with the new constitution in which a large number of subjects are going to be federalised? They will have to be carefully revised. Similarly, when we come to the question of political charges, that is an expression which includes so many charges, including some charges incurred in connection with Indian States and some charges incurred in connection with external matters. We shall have to define exactly what we mean by political charges, how we propose to meet the financial aspect of those political charges, who is going to find the funds, who is going to be ultimately responsible for the administration of those funds These are matters which to my mind have got to be discussed not as independent matters but in relation to the federal constitution which you are going to set up. I do not think you can avoid going into those questions and you have got to bring them into relation with the list of federal subjects and with the power of the Federal Legislature which you are going to set up. Now I will say no more on this part of the question.

Coming again to the powers of the Federal Legislature I may sound a note of warning here I think it is not right to assume that by merely preparing a list of federal subjects we have defined or we have exhausted the powers of the Legislature I will ask you to remember what exactly are the powers of the Legislature at the present moment in India and what radical changes you will have to make in order to fit them in with the general federal constitution. At the present moment in India there are three legislative authorities: One consisting of the Legislature, a bi-cameral Legislature, the lower House and the Council of State, the other consisting of the Governor-General in Council who legislates for what are known as backward tracts or administrations. The laws passed by the Governor-General in Council are in the Indian technical language called Regulations as distinguished from Acts, and Section 71 of the Government of India Act deals with such laws They are never submitted to the ordinary Legislature. The Legislature comes in nowhere. It is under these regulations that you administer Provinces like Ajmere and the North-West Frontier Province. All these regulations are passed by the Governor-General in Council, and are operative without any intervention on the part of the Legislative Assembly or the Council of State.

The third source of Legislature is the Governor-General himself as distinguished from the Governor-General in Council. The

Governor-General passes certain ordinances, and we know that in past years, and especially during the last few months, the Governor-General has been exercising that power, if I may say so, on a somewhat generous scale. You have got, therefore, to make some sort of provision for these powers. Personally, as I conceive the future Federal Legislature, I should like it to be a fully equipped Legislature without any rival in the land.

Coming again to the affairs of the Legislature, it would be a great mistake to suppose that the Indian Legislature is a supreme Legislature. Its powers are very much limited by the terms of the Section which creates it. I invite your attention to Section 65. If I may respectfully remind Your Lordship, a distinguished predecessor of yours in the Privy Council has had to interpret this Section in a very elaborate judgment, and Lord Haldane has also had to deal with it. If you read the terms of the Section you will find that the scope of legislation open to the Indian Legislature is not very large. The Indian Legislature has power to make laws for all persons, for all Courts and for all places and things within British India. It is quite obvious that if you have the word "Federal" substituted for the word "Indian" material alteration will be necessary; and I think the Indian States will be on their guard when that change comes to be made. Then the second proviso of the third clause says, "providing that the Indian Legislature has not, unless expressly so authorised by Act of Parliament, power to make any laws repealing or affecting any Act of Parliament passed after the year 1860 and extending to British India, including the Army Act, the Air Force Act, and any Act amending the same". The year 1860 has reference to the time when the Crown took over the administration of India from the East India Company. The second clause is, "any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India". I venture to submit that that, too, will have to go as a limitation wholly inconsistent with the federal character of the constitution. Further on the Section provides, "and has not power"—this is a very serious limitation which can have no place in a fully-fledged Federal Constitution—"to make any law affecting the authority of Parliament or any part of the unwritten laws of constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India".

I venture to think that the whole of this will have to undergo most material change before you can accept a constitution as the constitution of a fully-fledged Federal Legislature.

Then comes the last portion: "The Indian Legislature has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any Court other than the High Court to sentence to the punishment of death any of His

Majesty's subjects born in Europe or the children of such subjects, or abolishing any High Court" I had something to do with this when Lord Reading's Government appointed the Racial Distinctions Committee, of which I was the Chairman. A Bill had to be drafted and we had to approach the Secretary of State in Council at nearly every step, and a good deal of our law had to be changed at the last moment. All these powers, I submit, are not consistent with the constitution of a Federal Legislature

Further than this, I would point out Section 67B which is a Section which was introduced as a temporary expedient in view of the fact that the [illegible] was very much enlarged under the [illegible] and the Executive had to have sor[illegible] overwhelming majority on the Indian Legislature.

Under Section 67B the Government exercises the power of certification. Whether that power has been used wisely or unwisely, with discretion or without discretion, is a difficult question, but the very existence of that power in the Statute Books is a serious encroachment upon the independence of the Legislature I am only pointing out these things so that they may be borne in mind. Coming again to another important section of the Government of India Act, I invite your attention to Section 67A, which again shows how limited the powers of the Indian Legislature are with regard to financial matters I am omitting the first two clauses, and I am coming to the third clause, which is important. "The proposals of the Governor-General in Council for the appropriation of revenue or monies relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor," I will particularly invite your attention to the comma there, because the whole section has formed the subject of great controversy between the legislative department and your Crown Law Officers here—" nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs --

(i) Interest and sinking fund charges on loans, and

(ii) Expenditure of which the amount is prescribed by or under any law, and

(iii) Salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and

(iv) Salaries of Chief Commissioners and Judicial Commissioners; and

(v) Expenditure classified by the order of the Governor-General in Council as—

(a) ecclesiastical;

(b) political;

(c) defence"

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So that, in regard to defence, the whole thing is protected, although what is done really is that the budget is laid before the Assembly; the Assembly can discuss the budget, but it cannot vote. Even in regard to matters of appropriation the powers of the Assembly are very limited. I only wanted to point out that a clause like that will be wholly out of place in a Federal constitution. It may be when you come to discuss the question of the Services which are referred to in this clause, you may have to provide some sort of security to the Services or to make a provision for some sort of consolidated fund, but I wish to point that out.

My Lord, therefore I am pleading for a Federal legislature which shall not be subject to the control of Parliament, which will have perfect and full jurisdiction in regard to matters which are entrusted to it, without any power of certification vesting in the Viceroy. Unless you do that, that legislature will not be a full-fledged Federal legislature, and when we are supporting this idea of a Federation of All-India, what is really at the back of our minds is that our legislature shall be a real substantial legislature and not a shadowy legislature.

Now I pass on, My Lord, to the next question which is in your agenda. The next question is the constitution, character and powers —Clause 6. I am omitting 3 and 4 as nothing has been said about them. The next question is the constitutional character, powers and responsibilities of Federal Executive. His Highness the Maharaja of Bikaner, and I think His Highness the Nawab of Bhopal have made it abundantly plain more than once in the course of their speeches that they are not prepared to come into a Federation with the Government of India as it is. Now I would venture to paraphrase their statements in my own language, and I hope Their Highnesses will correct me if I am putting a wrong interpretation upon it. I take them to mean that they are not prepared to associate with a Government of India which is irresponsible, which does not hold responsibility to the legislature, but that they will be prepared to associate, and indeed it seems to me to be the vital condition of their agreement, that they will be prepared to associate with a Government which is responsible to the Federal legislature. I hope I have correctly paraphrased them. If that is so we at once go directly to the question of responsibility of the Legislature, for let me assume that you have given very full powers to the Legislature; let me assume you have prepared a very full and exhaustive list of subjects; let me assume that all the objections with regard to administration and control of the Federal subjects have been removed, and let me assume that you ultimately come to the conclusion that the Executive which you establish will not be responsible to the Legislature. I venture to think that the Indian States objection will hold, and I venture to think that not only will their objection hold but also our objection will hold. Therefore, personally speaking, I think the most essential thing to consider really is not the merely exhaustive list of Federal subjects, but the powers of the Legislature and also its rela-

tion to the Executive; in other words, to consider whether the Executive that you are going to give is to be responsible to the Legislature or not. Once that is done I venture to think that you have secured the success of this Conference, not only here but also, I venture to think, to a large extent in India at the present moment.

These are the matters which are affecting my mind As regards the component elements of the federation, I think when we come to examine the various points of view there is not much difference of opinion, and I will not fight about words. But what has been made clear on both sides is that the Federation will consist of sovereign States on the one side and Federated Provinces of India on the other side. That is the most non-controversial head of discussion of all the heads of discussion which have proceeded here. So far as that is concerned I am not going to raise any difficulty. There is only one remark in addition which I would like to make It has been said that with regard to the uniformity of legislation in regard to certain matters it is due to historical causes. I entirely associate myself with that feeling, but let me at the same time say that when I want uniformity of legislation in regard to certain matters, or uniformity of policy with regard to certain matters, I do not in the slightest degree intend to encroach upon the autonomy of the Provinces It is not my intention that the administration shall be subject to the appellate jurisdiction of a central jurisdiction in the day-to-day administration. Nothing is further from my intention When once the list of subjects has been prepared I should like the Provinces to go ahead, to take the consequences of their mistakes and to profit by their mistakes I would not like them to be spoon-fed by the Government of India or in the future by the Federal Government, or to be controlled by them from day-to-day, that will not be a federation; but of course you will still have to reserve certain powers to the Federal Government to see that there is a uniformity of policy in regard to matters which are extra-Provincial matters which affect more Provinces than one, in regard to matters, which affect the Provinces on the one side and the Indian States on the other. In regard to matters of conflict which may arise between a Province and another Province, those provisions you will have to make.

I have nothing more to say.

Mr. Gavin Jones: Sir, I have already given you my views on the elements of the Federation, so I will say nothing more about that. If you will allow me, I will get on the third item of our agenda, the powers of the Federal legislature. The essential features of our Federation, as I view it, entails the following: First, a division of sovereign powers between the Central Government and the various Provincial State Governments Second, a division of power in matters of all-India concern between the Federal legislature and certain authorities established under the law. I will explain what I mean by that in a minute. The division of powers would include the separation of executive,

legislative and judicial functions. I will not here deal with residuary powers; I would like to reserve my opinion on that. I do not think they are quite so important as so many delegates think, but I am rather in agreement with Sir Bhupendra Nath Mitra over the question of co-ordination of law and order. By co-ordination I do not mean control; control must, of course, rest in the Provinces, but there is that particular subject in which there must be central co-ordination, especially in the matter of the Criminal Investigation Department. That is a matter, however, which can be dealt with later on when the Provinces have decided about law and order. On this question I would like to point out that in no country in Europe or in the United States or in South America has such a concentration of powers been made in the Central legislature as in Great Britain, and the Indian legislature and Government has been formed on that model, and I maintain that the Indian legislature must never become the repository of the sovereign powers now held by the Government of India. Therefore, the first principle is the firm establishment of some Federal Government with its division of sovereignty and separation of functions. The separation of functions would include the removal from the sphere of the legislature of banking, railways and ports. The supreme administrative control of bodies such as these should be placed in the hands of non-political Boards.

Chairman: Do you mean the statutory body?

Mr. Gavin Jones : Statutory Boards created by the Statutory Act. By administration I mean administration, not question of policy, not questions of general policy, finance and so forth. These of course, must come before the legislature, but the administrative control should rest with these Boards. A non-political Federal Reserve Bank in charge of currency, able by sound policy to control exchange, would prevent political pressure being brought to bear on the Finance Member to upset the stability of exchange and meddle with currency. This, I think, is an important fact which is in nearly all federal governments. Similarly railways should be divorced from governments from the administrative point of view. The harm that is done to the administration of railways by political meddling is considerable. The railways in Germany have been very satisfactorily separated in this way from the legislature, and I think it is very important for the efficient control of our railways that ours should be dealt with in the same way.

With regard to the interpretation of the laws of the Constitution, these might be vested in a Supreme High Court or in the Privy Council. If they are vested in a Supreme High Court I think there should be powers to appeal to the Privy Council.

That is, briefly, Sir, my statement regarding the powers of the legislature.

Now let me get on to the type of the Central legislature. I think it would be suitable to the conditions of India that the

Central legislature should be representative of States and not a popular legislature. Personally I would prefer a single Chamber, but if we have to have a Lower Chamber I would suggest that we should adopt a similar principle as was adopted by Bismarck when he federated Germany. The conditions he had to deal with there were, in some respects similar to what we have to deal with. He had to federate autocratic states with towns like Bremen and Hamburg which were clamouring for democratic institutions and he did this by making the Bundesrat the chief legislature Bismarck's Council of State was the executive and administrative Chamber under the Presidency of the Chancellor. From it were formed permanent Commissions for Army, Navy, taxation, commerce, communications, justice and finance. All Bills were introduced in the Upper Chamber, the Bundesrat, and sent afterwards to the Reichstag The Reichstag had powers of criticism, to amend Bills and to refuse new taxation, but the final decision rested with the Upper Chamber and that decision was absolute. That federation formed by Bismarck carried Germany through many years while the autocratic and the democratic principles were being welded. I feel that in India we are trying to run ahead too fast for a democratic institution, there is a tremendous amount to be learnt before we can get that

Now, Sir, I did want to confine my remarks to those two items on the agenda, but Sir Tej Bahadur Sapru has taken us on to the sixth one, the powers of the executive, and although I will not deal with the whole matter fully I would just like to make one or two important remarks

The Crown subjects which he referred to must be reserved for the Crown.

With regard to defence, I was not quite clear exactly what Sir Tej Bahadur Sapru meant. I think I am in agreement with him in one respect, and that I have mentioned in the principle which I enunciated the other day, that the military and naval defence forces of India shall be entrusted exclusively to Federal forces under one command control, by the Governor-General acting on behalf of the Crown Now the Simon Commission's proposals I do not think will quite work, but defence must remain a Crown subject administratively under the control of the Commander-in-Chief and responsible only to the Crown until there is not a single British soldier or British Officer left in India

Then in regard to the other reserve subjects, there is one subject which must in the interest of all minority communities remain under the control of the Crown, and that is the protection of minority interests. He has not touched on foreign affairs, but he is content to leave that with the Crown, and also, he says, the Services.

Chairman: Did you say Services?

Sir Tej Bahadur Sapru: No. I never referred to that.

Mr. Gavin Jones: You said that some protection might be left for the Services with the Crown.

Sir Tej Bahadur Sapru: That was with regard to safeguard.

Mr. Gavin Jones: Anyhow, the Services that are recruited by the Secretary of State must remain under the Crown.

Sir Tej Bahadur Sapru: I do not contemplate that.

Mr. Gavin Jones: Then you are looking very far ahead, I am afraid.

As regards finance, I do not want to go into that; it is a most complicated and difficult subject, and I think is the most difficult subject we have got to deal with. But one thing is certain, that in order to maintain the credit of India in the markets of the world—and India cannot do without more money—to some extent the Crown must be responsible for the financial stability of India.

There is one remark you make, Sir, with regard to these Crown subjects. I do not know whether I interpreted you correctly, but I think you said something to this effect, that the Crown subjects would be reserved for a term of years.

Chairman: No, I did not say that at all. I particularly said this, that as far as that was concerned I was not considering that at all, whether it would be reserved for six or seven or eight or ten: that was a matter of detail which we had to come to some conclusion about. If I did say it, it is a mistake. The reason was that I have not made up my mind as regards that.

Mr. Gavin Jones: I did not quite clearly understand it. I would like to state our point of view on that. We thoroughly agree in that respect with the Simon Commission in that the constitution should contain within itself powers for its own development. The problem on broad lines should be settled now, and the Constitution, while conforming to the ultimate object, should not attempt to lay down the length or the number of stages of the journey.

Chairman: What you were thinking of in the reference to Sir John Simon's Report were: "(1) the new constitution should contain within itself provision for its own development", and I think what you meant to say was this—"(2) in that it is of paramount necessity that while India is on the road to complete self-government there should be full provision for the maintenance and efficiencies of the fundamentals of government". I think those were the words you meant to quote.

Mr. Gavin Jones: Yes, I am sorry I misunderstood you.

Chairman: The third is "The ultimate constitution of India must be federal".

Mr. Gavin Jones: There is one more point I should like to speak upon. There was mention made of how the legislative bodies should be elected. I quite agree that the Upper Chamber

should be indirectly elected. As regards the Lower Chamber, I would like to reserve my opinion, because there are great objections to direct election as the franchise stands at the present moment. I quite agree it is possible to have a certain amount of direct election, but I hold very strong views about the separation of urban constituencies from rural constituencies. What I feel at the present time is that the legislature is far too apt to be ruled by urban politicians, and we do want, if we can possibly manage it, to arrange that rural constituencies should be indirectly elected, and this might lead to indirect election for the Lower House.

Sir C. P. Ramaswami Aiyar You would preclude the urban man from standing for a rural constituency?

Mr. Gavin Jones · That is right

Mr. Jinnah: I do not want to take up the time of the Committee. I thought we were merely confining our discussion to Nos 1, 2 and 6 of the agenda That is how I understood your ruling that you gave, and therefore I do not wish to enter into other matters, about which I shall say what I have to say when we come to them in their proper order.

As to No. 1, the constituent parts of the unit of the federation. after listening to the very instructive discussion I do not see any other course except that the constituent elements must be the Provinces as units and the States or groups of States which come in.

Even with regard to the type there is a great deal to be said, but ultimately I feel that there is no other course open to us except to have the bicameral system—two Chambers I will not go into the pros and cons, but that is the conclusion which I have been compelled to come to.

Then as regards the executive, No 6 I cannot imagine any other kind of executive except one, the unitary.

That is all I have to say on these three points. I will not take up your time in regard to other matters I will only say one more word generally so that the Committee may know, and particularly the British delegations, as to what is the exact position of the Indian legislature to-day. I will not take you through the Statute and the sections, but I will try generally as accurately as one can in the absence of the actual words of the Statute to put the position before you. Our Central legislature really has no control and no responsibility with regard to any subjects, whether it is defence or finance or revenue or law or any subject; there is no subject, there is no department, over which our legislature has got any control or responsibility. As you will find from the Report as well as from the Statutes enacted, it is merely there to influence the Government and no more; in fact its only function and real function is that of advisory body. But even as such no private Member can introduce a Bill of any importance because, as has been pointed out, under Section

ty, it cannot be done without previous sanction. Therefore the position of the Indian Legislature is merely that of an advisory body. Then we come to the question, which is to my mind the most important question, namely, as to what control and what responsibility is to be vested in your future Federal Legislature and Government. The question is, what amount of control and what amount of responsibility will be vested in your future Federal Legislature and Federal Government. I shall not go into that now. That is a question we shall have carefully to consider item by item and step by step, and when we come to that subject I shall have something more to say.

H. H. The Nawab of Bhopal: I only desire to express certain views with regard to certain points which have emerged from the various speeches which have been made. Referring to remarks which fell from Sir Sultan Ahmed, he pointed out that in due course it would perhaps be possible to increase the list of Federal matters to such an extent that the list might be practically the same as the list of Central subjects, that is, subjects dealing with the Provinces and the Centre. I wish to express my opinion about that, namely, that the number of matters of common concern even as regards the Provinces should be reduced rather than that their number should be increased. We do not want to add to our matters of common concern simply on the ground that they should be the same as those of the Provinces and British India. We have from the very beginning made it clear that if there is to be any levelling done we hope that the other component elements of the Federation will be levelled up to us rather than we shall be levelled down to them.

A second point is in reference to Mr. Muhammad Shafi's remarks. It is a very small point. He said that if there was a dispute between the Lower House and the Upper House there would be a joint session and that the decision would be by a majority vote. As far as I know the point of view of the States, we think that in such an event the majority should be three-fourths and not a bare majority.

As to his other remark that legislation should be concurrent, I think the States themselves have proposed that. Any legislation passed by the Federal Body to allow the States' Legislatures to pass it concurrently in their States would be welcomed by the States. I entirely agree with what was said about that.

I should also like to express my view, which I think is the view of the other Princes also, that any additions in the future to the original list of matters of common concern should go by a three-fourths vote, and by the consent of each of the federating units so far as that unit is concerned. I am referring to any future additions.

Mr. N. M. Joshi referred to questions affecting labour, and said that they should not be Central or Federal subjects. The

States agree that they should not be made Central or Federal subjects.

As regards law and order, he made certain remarks. As far as the States are concerned, we hope that law and order will be the concern of the States entirely, and not made a Federal subject

Mr. Sastri · He really meant peace and tranquility within the Realm. He did not refer to law and order

H.H. The Nawab of Bhopal Everybody knows, and history will shew, that we have been able to maintain peace and order in our States in a more satisfactory manner than British India

As regards Sir Tej Sapru's remarks, I want to ask one question. He referred to matters of common concern Is he thinking of agreeing to a smaller list of matters of common concern?

Sir Tej Bahadur Sapru I agree to the list which has already been prepared by the Lord Chancellor

H.H. The Nawab of Bhopal You said that real federation would not depend on what the list was but on what the control was.

Sir Tej Bahadur Sapru That was not my meaning I was meeting objections in certain quarters to the effect that no federation can be real unless, among other things, it has a sufficiently large number of matters of common interest, and my answer to that was that according to the list prepared by the Lord Chancellor, and of which we approved the day before yesterday, it is a fairly exhaustive list. It is not open to the objection that it does not give enough to the federation It is a good start

H.H. The Nawab of Bhopal You will understand, as far as that is concerned, that we are prepared to give as much control as is necessary, consistent with due safeguards for our interests We can examine that later. There may be one or two subjects about which we may have something to say

Sir Tej Bahadur Sapru · If I may speak with absolute candour, one object that had been raised was that there is no sufficient provision made by Your Highnesses for common control, because in the absence of common control there might be very serious difficulties in regard to matters of common concern, and if you will be pleased to look into various constitutions you will find that in every one of them there is ample provision made for common control, although in some instances there might be separate administration Over the administration there must be a common control. We would very much welcome your agreeing to common administration in regard to some of the matters which are common to every constitution. In any case we would very much urge it upon Your Highnesses that you should make the position quite clear that, so far as common control is concerned, that must rest with the Federal Government. Otherwise there will be practical difficulties and conflicts cropping up both in your States and in British India.

(The Sub-Committee adjourned at 4 p m.)

PROCEEDINGS OF THE SEVENTH MEETING OF SUB-COMMITTEE No. I (FEDERAL STRUCTURE) HELD ON TUESDAY, 9TH DECEMBER, 1930, AT 11 A.M. AND 2-45 P.M.

Sir Akbar Hydari: My Lord Chancellor, I think that every one here is inspired by one ideal, and we have now been trying for some time past to find how that ideal may be realised. We have in the first place discussed as to what would be the subjects in which all the representatives of Greater India could come together and could discuss together, and what would be the subjects where they would have to go their own way and administer their areas in those subjects in their own particular way. Therefore, so far as subjects are concerned, I take it that we are all trying our best to exhaust the whole sphere of administration and divide it into what are on the one hand Provincial and States subjects, and on the other hand what are Federal subjects, leaving a certain sphere for the Crown, at any rate for the present without any definite period.

I feel that so far as the Federal subjects are concerned, we should try to make the content of each subject as much as is essential and required and not go beyond that. I agree, and I think the Indian States (at least speaking for myself) would be prepared to make the content of each subject as much as is possible, but on the other hand, let it not go beyond the necessities of the case. And we shall have, when we come to view each subject in detail— especially in the matter of administration—to see what is required in order to make that subject truly Federal. So far as I can see at present, policy and legislation are the main branches or the main directions in which, of course, the utmost power should be allowed to the Federal Government with regard to Federal subjects; but with regard to administration, probably what will be required will be only a kind of general supervision at the Federal Centre, so that the different administration units function properly with reference to the powers they are exercising. In this respect, so far as the Indian States are concerned, that should be their policy; and, on the other hand, so far as British India is concerned, I think that we should also like to come into line with them, and they with us, to such an extent that there is no residuum between Provincial and Federal subjects in the form of Central subjects, and if there is any residuum, we should consider whether it cannot in any way be got over by special means and devices. So far as I have been able to give any thought to this subject, probably legislation is the chief branch. Whilst on the one hand the Indian States are not prepared to part with their sovereignty, on the other hand the British Provinces are not prepared to part with their instrument of uniformity. But the device contained in Section 94 of the Canadian Act and several other devices are possible in order to secure uniformity of law in all the federating units, without trenching on their sovereign powers. As a matter of fact, what happens with regard to legislation, even to-day, say

...th regard to the penal code, or the criminal procedure code, in ...nt of the larger Indian States. I am speaking particularly with ...gard to Hyderabad. In that we have practically put the British ...dia Act, translated into our own language, the language of the ...ate, with one or two minor details here and there, which ...e differently; so even if the Federal Legislature were to pass ...nder any bill, it would be quite possible for the Indian States ...accept a position in which the Federal Legislature could ... ...s it provided that that bill became the norm of legislation on ...at subject, which is ultimately ratified, with such details as ...ay be necessary, by the respective Legislatures.

Sir Sitaramaswami: You mean by the respective Legislatures ... the Provinces, or ...

Sir Akbar Hydari: So far as the Indian States are concerned, ... the Indian States; so far as the Provinces are concerned, by ...e respective Provincial Legislatures. Take the Sarda Act; ...robably it would have been much better, if such an Act had been ...nsidered by each of the Provincial Legislatures after the general ...dea had been discussed. However, it is not for me to suggest ...ings to British India, but I am suggesting that that is one of the lines ...n which you can attain the ideal which we all have in view.

Sir Sitaramaswami: And, for your part, you are willing that ...he States should be bound by the Canadian precedent.

Sir Akbar Hydari: Yes. I am speaking for myself, ...state. There are a number of States which may not find it ...possible to accept that, but the main question will be as to the ...ower of Federal Legislature that you will implement.

I now come to the Federal Legislature, which will ... [illegible]

[illegible]

Starting from that proposition ... [illegible]

PROCEEDINGS OF THE SEVENTH MEETING OF SUB-COMMITTEE NO. I (FEDERAL STRUCTURE) HELD ON TUESDAY, 9TH DECEMBER, 1930, AT 11 A.M. AND 2-45 P.M.

Sir Akbar Hydari: My Lord Chancellor, I think that every one here is inspired by one ideal, and we have now been trying for some time past to find how that ideal may be realised. We have in the first place discussed as to what would be the subjects in which all the representatives of Greater India could come together and could discuss together, and what would be the subjects where they would have to go their own way and administer their areas in those subjects in their own particular way. Therefore, so far as subjects are concerned, I take it that we are all trying our best to exhaust the whole sphere of administration and divide it into what are on the one hand Provincial and States subjects, and on the other hand what are Federal subjects, leaving a certain sphere for the Crown, at any rate for the present without any definite period.

I feel that so far as the Federal subjects are concerned, we should try to make the content of each subject as much as is essential and required and not go beyond that. I agree, and I think the Indian States (at least speaking for myself) would be prepared to make the content of each subject as much as is possible, but on the other hand, let it not go beyond the necessities of the case. And we shall have, when we come to view each subject in detail— especially in the matter of administration—to see what is required in order to make that subject truly Federal. So far as I can see at present, policy and legislation are the main branches or the main directions in which, of course, the utmost power should be allowed to the Federal Government with regard to Federal subjects; but with regard to administration, probably what will be required will be only a kind of general supervision at the Federal Centre, so that the different administration units function properly with reference to the powers they are exercising. In this respect, so far as the Indian States are concerned, that should be their policy; and, on the other hand, so far as British India is concerned, I think that we should also like to come into line with them, and they with us, to such an extent that there is no residuum between Provincial and Federal subjects in the form of Central subjects, and if there is any residuum, we should consider whether it cannot in any way be got over by special means and devices. So far as I have been able to give any thought to this subject, probably legislation is the chief branch. Whilst on the one hand the Indian States are not prepared to part with their sovereignty, on the other hand the British Provinces are not prepared to part with their instrument of uniformity. But the device contained in Section 94 of the Canadian Act and several other devices are possible in order to secure uniformity of law in all the federating units, without trenching on their sovereign powers. As a matter of fact, what happens with regard to legislation, even to-day, say

with regard to the penal code, or the criminal procedure code, in most of the larger Indian States—I am speaking particularly with regard to Hyderabad—is that we have practically got the British India Act, translated into our own language, the language of the courts, with one or two minor details here and there, which are different; so even if the Federal Legislature were to pass or consider any bill, it would be quite possible for the Indian States to accept a position in which the Federal Legislature could discuss it, provided that that bill becomes the norm of legislation on that subject, which is ultimately ratified, with such details as may be necessary, by the respective Legislatures.

Mr. Srinivasa Sastri. You mean by the respective Legislatures in the Provinces, or——

Sir Akbar Hydari So far as the Indian States are concerned, by the Indian States; so far as the Provinces are concerned, by the respective Provincial Legislatures. Take the Sarda Act, probably it would have been much better if such an Act had been considered by each of the Provincial Legislatures after the general policy had been discussed However, it is not for me to impose this on British India, but I am suggesting that these are the lines on which you can attain the ideal which we all have in view

Mr. Srinivasa Sastri And, for your part, you are willing that the States should be bound by the Canadian precedent

Sir Akbar Hydari Yes I am speaking for myself, Mr. Sastri. There are a number of States which may not find it possible to accept that; but the main question will be as to the form of Federal Legislature that you will implement

I now come to the Federal Legislature, which will have to *consider in many cases to decide, in other cases to direct, in some* cases to advise, as to what should be done with regard to federal subjects; and my first point is that it is the Federal Legislature, which should be considered to be the primary and topmost Legislature of India, and it should be really constructed with due regard to the polity and requirements of the federating units In other words, if you are going to have any other Legislature, the Federal Legislatures should not be fitted into that other Legislature, but that other Legislature fitted into the Federal Legislature.

Starting from that proposition, of course, theoretically the Federal Legislature must have representatives of the Governments of the federating units, and therefore it is that the States have shown a preference for a uni-cameral Legislature in which each of the federating units sends its quota of representatives to the Federal House in the way best suited to its system of government. Even in British India I am not sure whether there are not many who are not much enamoured of having a Second Chamber; but that is only by the way. If, however, one House is not acceptable to British India, and two Houses are required, all I can say is that you will have to consider questions as to how the powers of

the two Houses *inter se* will have to be adjusted. I am one of those who think that, whatever be the Federal Legislature, whether it is uni-cameral or bi-cameral, all the federating units must come into it. All that I wanted to say when I spoke about a uni-cameral Legislature was that that would have made us feel surer of our ground, and would have made it easier for us to have come in and accepted it as the right thing for India and the States.

I therefore, then, again say that whilst a uni-cameral Federal House is what a State like mine would prefer, I will not say that we shall not accept a bi-cameral Legislature if that is required in order to bring about a unity of Greater India.

I hope—and now I am speaking also as a British Indian, for may I remind those who do not know me personally that I have served as much in British India as in Indian States; my apprenticeship has been in a service of whom a most distinguished representative is here, Sir Bhupendra Nath Mitra, and I have kept myself in touch with political tendencies in British India, and therefore I am now speaking also, if I may be permitted to say so, with that feeling—I hope that we shall have the Federal House erected on a basis of stability, proof against mass suggestion, where quality is mainly looked after. The exact way in which this will be done—whether by direct or by indirect election—will be a matter, I trust, for the other Sub-Committee to go into. I am at present simply staing my own predilection for an indirect system of election, because it also satisfies that condition of bringing about a contact between the electors and the elected.

We all want that there should be a Government by Indians for India, and I very strongly feel that for that purpose it is necessary that the responsibility should lie with a body of people who have had experience of the different problems as they work out in their concrete realities, and it is for this reason, more than anything else that I am appealing to everybody here to have, for the present, in the Centre a Legislature which will ensure the return of people of this quality.

It is always possible, if you start with a small selected number, in a particular way, or elected in a particular way, gradually to broaden the basis, but it is not possible for you, once having started with a very wide basis, then to contract it. And that, Sir, if I have understood you aright, is what you also feel—that we should not implement a constitution where there will be a Central executive apart from the Federal executive. And I feel that it is really not necessary to go about our work with full appreciation of all the details of the problem. I do not think it is necessary to have really any separate Central executive.

It has been said that there will have to be supervisory powers beyond the Provinces. Probably the supervisory powers will be those of the Crown. You will not require a Central Legislature for that purposes. However that is again a matter where per-

haps, when we come down to further details about the different subjects, some sort of agreement will emerge. All that I say is that we are now working for a unity A friend of mine opposite said, "Let us not do away with the unity that we have already got in British India."

I have only one or two words more, and that is, we have been asked not to do away with anything that is at present working for the unity of India. I share that view, but I feel that we are now asking that the centre of that unity should be transferred, not to the portion which is marked red on the map, but to the portion which is marked red as well as yellow on the map of India. A new unity has to be created at the Federal Centre which is based upon the willing co-operation of all the different Provinces and States which compose this vast continent, and not a unity which, at any rate of recent years, is being expressed by a continuous struggle between two peoples, one more in the spirit of a rebellion of a son against one whom he considers as his unsympathetic father. What I should like created is a unity which will be of that love which comes from brotherliness between equal and co-operating nations

Sir Tej Bahadur Sapru · Will Sir Akbar be pleased to tell us whether, if we have a two-Chamber Legislature, he will come in?

Sir Akbar Hydari: So far as my advice goes, I will advise them to come into both the Houses so long as composition is agreed upon.

Sir Tej Bahadur Sapru: So I take it that your objection to that is withdrawn now.

Sir Akbar Hydari: I said that you would make it easier for us, I said that we should be much surer of our ground, if some of you who feel the same as some British Indians, that one House is better than two, will come together with us in that way, but I said definitely that I will not make that a matter on which I must necessarily disagree.

H.H. The Maharaja of Bikaner First of all, My Lord Chancellor, I should like to express the gratitude and satisfaction of myself, and, I feel I may add, of all of us from the States, at the consideration shown by all parties and delegates to the sovereignty of the States and for the subjects which come under their internal autonomy. I think that yesterday's discussions were of a particularly satisfactory nature, and I think we must all feel also that we have really made substantial progress. I am not going to touch upon matters which concern purely British India I made that clear on behalf of myself and on behalf of the States in the beginning and also on other occasions. Sir Akbar Hydari, in any suggestions he has offered, has made it clear that he has advanced them not only as an old and experienced Minister—a distinguished Minister from a most distinguished

State—but also as a British Indian in his personal capacity for the love of his country as solutions of certain difficulties which may have to be faced and to which he has striven to make his contribution. I was very glad yesterday to hear Sir Tej Bahadur Sapru refer to the advance made already and the satisfactory progress achieved. The States feel proud to think that they have by their reasonableness and spirit of patriotism contributed to it, consistent with the essential matters affecting their sovereignty, from which they could not reasonably be expected to depart. Otherwise we have really made willing sacrifices, I think substantial sacrifices, when they are calmly looked at, and I think you will find that the same spirit will permeate us all in all our future discussions in this as in all other work that may be before us, till, as we hope, this Conference comes to a happy conclusion. I really feel that we cannot allow this Conference to fail if success is within our power.

My point was that there seems to be an idea that because there may be some difficulties in regard to the Provinces, which we have been discussing, the States must have their sovereignty taken away. What I want to point out is that the States are delegating, according to their views and with their great knowledge, a good deal in certain matters of joint concern which are indisputably their sovereign rights, and I am so glad to see that our friends on the other side are realising that we are making an honest—not a paper contribution—but an honest contribution towards what we hope will in process of Evolution become more and more a constitution which will prove to the benefit of both sides. Yesterday one of our speakers—I think it was my friend Sir Sayed Sultan Ahmed—hoped that as we go along we should make a further addition to the list of common matters. I am coming to that a little later; I simply wish to say that that will depend not only on the terms of our agreement in this Committee and in the Conference, but also upon the satisfaction given to the States or otherwise in the actual working of the Federation.

Now, if I may go into certain important details which were discussed yesterday, I wish to make two points clear. First, I would invite attention to what I said in regard to our not wanting to come in under the present system of Government. I have made it clear that I am not talking of any matters which are the domestic concern of British India. That is a matter for the Crown and our British Indian friends and Parliament to settle, and except where we may be directly or in some other important way indirectly concerned, I have no desire on behalf of the States to say anything. I want to make this clear, and I gave you, My Lord Chancellor, some instances as to why we could not federate with the Government of India as it is to-day. I do not think I need say any more. That is all we are concerned with. We are not going to delegate any of our sovereign powers if the system goes on as it is at present and unless the exercise of those sovereign powers is shared by the States in the future federation.

Mr. Jinnah. The question I want to be clear about is this: Their Highnesses said that all that they want is that they do not want to come into the Federation with the Government of India as it is constituted at present. The mere fact that you are making certain subjects Federal subjects does not make it follow that the control and the responsibility will be vested in the Federal Legislature or the Federal Government. Would you accept that?

H.H. The Maharaja of Bikaner I think that is a question about responsibility; I think the States will have a say in the matter, when the right time comes, but we cannot do it now. We cannot delegate our powers and go in without possibly a Federation at all or without the States having a voice in the framing of policies. That is all I think I need say at present There are a lot of other questions which will have to be discussed, and we will give you our views when the time comes I have made a note of certain points

I think I had better next come on to the subject of Federal Houses. Again, I say it is a matter for the Crown and British India to settle whether they are going to have one House or two Houses I personally, and many of us, feel that it will be impossible to have any system of government in India in the future without two Houses. That is a personal expression of opinion again. But on the assumption that there are two Houses, some further observations which fell from my friend Sir Sayed Sultan Ahmed again yesterday are those with which in effect we are in agreement. If you will allow me a few minutes I would like to tell you our views for some years past on the subject and what change they have undergone now, because, as I said on the first day, we have come with an open mind, and we are not here to obstruct, but to help. If there are to be two Federal Houses—and I am talking of Federal Houses at present, I am coming to the further details—I see no other alternative but for the States to come in to both Federal Houses. This is a matter on which I have changed my opinion. We have not had opportunities of putting it before our entire delegation, but we had a very long discussion at a committee appointed by the States Delegation, at which Sir Akbar Hydari was also present. I am sorry one or two of my friends were not able to be present We had a long discussion and we did come to the conclusion that on the lines which I shall in due course place before you to-day, there would be, if anything, an advantage, when you weigh the whole thing, in the States, by coming into both the Upper and Lower Federal Houses. If you will allow me, I should like to go back a bit to past history. I might, before I go further, ask you all to bear in mind the very great responsibility and the difficulties with which my brother, His Highness the Nawab of Bhopal, and I are faced, the only two Princes representing ten others present here, and our Ministers representing sixteen of us here in the Delegation, 108 States who are members of the Chamber of Princes,

the 27 who are represented by groups, and a class of other so-called States, comprising Indian India—the yellow on the map. I beg you also to realise that we are in the States in different stages of advancement, of prosperity, of diverse conditions and thoughts. I do not believe any of us are what may be called rash politicians or enthusiasts rushing headlong to disaster, but some of us feel that we are more conservative than the others. When we are honestly convinced that something is for the good of the States we have to take a certain amount of responsibility on ourselves in the hope that the negotiations we are conducting in the best interests of our States and our subjects will meet with the approval of, not only our Delegation here but of those whose interests we represent and who we remember. Also some of us stand to be repudiated—that is a point I want to make clear—by some of our brother Princes even here, and that sometimes makes us go very cautiously, more cautiously than if we were all here. Now it may be that some States may desire to keep out of the Lower House as they may desire to keep out of the Federation, but that is a possibility with regard to which I will only say that if we get a satisfactory solution and a promise of agreement here—well, I hope there will be very few who will keep out in the beginning, and even those we hope will come in according to how they find the interests of the States are duly safeguarded and according to how the whole Federal machinery works. Anyhow, we are of the opinion that it will not be to the advantage of the States to keep out of the Lower House or out of the Federation, and when we go back to India I hope that we shall be able to do some propaganda with those who are nervous, just the same as my friends opposite will have to do a certain amount of propaganda, possibly made with black flags, from an important party in India which is not represented here.

However, with this digression I will move on. There was no stronger opponent of entering the Lower House—now I am making a distinction between the Federal Lower House and what is at present known as the Legislative Assembly at the Centre. This question was taken up by us, not to-day or yesterday, but has been before us ever since the question of a liberal measure of reform for British India was under consideration, even before the Montagu Reports. Some of us, like myself, even though we realised that the States would feel the repercussion of such reforms in British India, in the interests of the Empire and of our Mother Country, urged, even before Mr. Montagu came to India, a liberal measure of reform. I, in another name and capacity, before the Chamber of Princes was started, I think in 1921, had to discharge the same duties for five years previously which I did for five years afterwards as Chancellor of the Chamber, and I had the special responsibility of getting certain schemes and details worked out. It may not be known to our friends opposite, but I was the only Prince except one who was on that Committee. There were four of us, the present Chancellor, myself, the Maharaja of Nawanagar and the Maharaja of Alwar, and we had

a great meeting in December, 1917, in Bikaner, when we went into this very question of our entering the Federal House

I trust I am not guilty of any indiscretion when I say that, to our great regret, one of the differences with Sir Mirza Ismail's predecessor was that he was rather in favour of going into the Council of State and the Legislative Assembly as they were formed under the Montford Reforms. We said it was impossible for us to go in. I will not go into details; some of the reasons are obvious; but we felt that going in with a minority, and going into a House or Houses where British Indian domestic affairs were being discussed would not only mean the States being involved in British Indian affairs, but that purely domestic affairs within the Sovereignty of the States would also inevitably be brought up and dealt with there. In this connection, and also in connection with administrative details, we have not only resisted efforts made from all sources, but we have stood absolutely resolute in declining to be drawn into discussions of matters of domestic concern to British India; or, if I may use a slang expression, being made the cat's paw of any individuals or parties in regard to British Indian domestic affairs. Also in this, as in subjects which we are now taking up as common Federal subjects we have to be careful not to go beyond a certain stage which might rightly be feared by some of us at least, or legitimately lead to the thin edge of the wedge being driven in, and resulting ultimately in the sovereignty and the separate existence of the States being jeopardised.

Now, if we come to a Federal House, it can only be—and that is what I understood was the sense of our friends opposite—for dealing with matters of federal concern which we shall here agree to make and place on that list. I would not advise, and we would not agree, in other Houses to be present to legislate for or to deal with matters of British India concern It will only be for Federal purposes. That involves walking in and walking out We feel, apart from other things, it would be *infra dig* for the States—one of the two great elements which are federating—to walk in and walk out. Furthermore we feel that it would be very difficult in a body exactly constituted like that for a clear line always to be drawn. It might ultimately be found that there were subjects being discussed which directly or indirectly affected the Indian States and *vice versâ*. I believe that some of our friends opposite also thought there would have to be sessions for these two different purposes—that is, for Federal subjects and for purely British Indian subjects. I refrain deliberately from talking of Central subjects for all British India; that is a matter for the Crown and our friends opposite; but I am just saying there are two kinds of subjects which must come up, namely, those which concern the whole of British India, and those which concern us and British India. If we are going to have separate sessions, and if we are going to have separate agendas, and if we are going to have two classes of work in the Legislature, then why not, so far as the States are concerned, have two Houses?

I do not ask our friends of British India to have two sets of elections for the Upper House and two sets of elections for the Lower House, and thus have four elections for one British Indian Legislature. We will call it, for the purpose of convenience at present, the Assembly, as it is, and the Council of State, and then the two Federal Houses. That is a matter for you. We want to hear more as to the numbers which you want from British India in the Assembly and in the Council of State, or whatever we are going to call it. It is for you to say how you will come in subject to what is settled here. You may even if you wish, all of you come into the Lower House and to the Upper Federal House. Then our representatives will come to the Lower House and the Upper House. You will have the same members and all that. You may come in, all of you, as you are from what is known as the present Legislative Assembly and the Council of State, and you will come in for purely Federal subjects in that part of the session, with you sitting in it. Those two Houses should be called by some suitable Federal designation. I have not talked of the numbers, because we want to know further about that. We want to know also what are the powers of the Legislative Assembly, or of the Council of State as it is, and of the Upper Federal Houses. We will have to say something later as to the numbers. That is all I want to say at present. We are coming in, and I believe you are ready to welcome us, as co-equal partners. We are the two main units, and the States will therefore be entitled to press for an equal voice, and therefore for a proportion of fifty-fifty in the Upper House, and a certain proportion in the Lower House which must be fair to the States; we realise that there we cannot come in on an absolutely equal basis, but it must be a sufficient proportion. In all these matters we have asked for, and I think it will be conceded, certain safeguards. I invite your attention to what I said on the first day—that it is not merely on the population or area basis, but with due regard to the States' internal sovereignty, their relations with the Crown, and the human element, as Lord Sankey said.

I have also brought up the question of weightage, and I want to make one further point clear in that connection. I wish to say that the Princes will not come in to either House, but they will send their representatives. Their representatives will be chosen by their Governments. This is a matter which is entirely for the States, and I am very grateful that that is recognised by our friends opposite. This is a matter which is not the concern of anyone else. It is a matter for the States and their subjects, and their Governments will send representatives. We want, as I said on the first day, to get the interests of all States big and small represented, and that is a matter which will be settled by the States in consultation with the Viceroy.

Now, regarding safeguards, in cases of dispute or joint session our idea is that matters should not be decided by majority of less than three-quarters, or 75 per cent.

Chairman: That is in joint session?

H.H. The Maharaja of Bikaner · Where there are matters in dispute and there are joint sessions of the two Houses, we want a majority of 75 per cent. or three-quarters.

Sir Samuel Hoare: Is that a majority of each House, or of both Houses sitting together?

H.H. The Maharaja of Bikaner Whatever is the procedure. We are looking to you, Sir, and to our friends opposite, for help in regard to this.

Then there is the question of reservations and of the suspensory powers of the Viceroy and Governor-General exercised on behalf of the Crown. That is a matter we want to hear about—and the Royal Veto.

I have given a general outline of my views. If there are any further points I can make clear perhaps I may do so now.

Sir Sultan Ahmed · Supposing you are fifty in the Upper House, and we are fifty. Supposing in the Lower House you are forty and we are sixty. The result would be that you would be ninety in the two Houses and we would be 110. In case of deadlock you have suggested that there must be a majority of 75 per cent. That means that 150 would be required. That would mean that the whole of the Indian Council would still need the whole of your Lower House to carry the proposal

H.H. The Maharaja of Bikaner Shall we discuss this when we are discussing numbers? May we discuss it as a separate matter?

Chairman: Yes.

H.H. The Maharaja of Bikaner · I do not know what numbers you propose for your two Houses yet. We will leave that for a moment.

Chairman: I am obliged to Sir Sultan Ahmed for raising the point. There must be room for you to convert the Princes, or for the Princes to convert you.

Sir Sultan Ahmed · May I put one more question? As regards the Upper House and the Lower House, I could not quite follow Your Highness. Will you have only two Houses?

H.H. The Maharaja of Bikaner: You will have your two Houses for British India I take it, will you not?

Sir Sultan Ahmed: Yes.

H.H. The Maharaja of Bikaner: For the purpose of being clear in our minds, let us call them the Lower House—the Legislative Assembly, and the Upper House—the Council of State. For British India you may keep that name or you can change it. When we come in, give it another name. Is that all right?

Sir Sultan Ahmed: Yes—only the name.

Sir Akbar Hydari: The question of Sir Sultan Ahmed presupposes that the total strength of the Upper and Lower Houses are just the same.

H.H. The Maharaja of Bikaner: We have gone on the idea that you will have much larger numbers in the Lower House. But we want to know what your idea is, and then we will discuss it.

Sir Samuel Hoare: May I ask a question about the All-India and the British India subjects? Have you considered the other alternative of permissive legislation on the lines of the British North America Act?

H.H. The Maharaja of Bikaner: I am coming to that. I am talking now of the two Houses, and the numbers of our representation, and our readiness to go into the Lower House.

Mr. Jayakar: I did not quite catch what Your Highness said about the suspensory powers of the Viceroy.

H.H. The Maharaja of Bikaner: I do not know what is proposed about that, but I was talking of certain safeguards. Perhaps we may have to have safeguards on that line. I do not know what your views are.

Mr. Jayakar: Has Your Highness any views to offer on that?

H.H. The Maharaja of Bikaner: We thought there might be certain things—in case of any conflict—between British India and the States, where some safeguards would be necessary. I throw that out as a matter for discussion.

Then as regards matters, which I hope we are going to agree to very shortly, of common concern. We want a procedure laid down in the constitution, which we want to be rigid, as regards the addition of any further subjects, once we have entered into a federation. I do not think at present it is necessary for me to go into further detail; I just invite your attention to that fact. We want to come in, as I have said, in only as few matters as are necessary for the unity and good of India—only in those and no more. If we have to add more, we do not want them lightly added. We want some rigid procedure. Is that clear?

Chairman: Perfectly clear. You want some automatic procedure provided for in the constitution under which further subjects can come in.

H.H. The Maharaja of Bikaner: Sir Samuel Hoare raised this very point. Concurrent legislation is a point which I urged the other day. May I just say this in order to refresh the memories of my friends from British India especially? I am not saying that the States should be free to do what they like in regard to what we agree shall be matters of common concern. I realise that as far as we can we must get uniformity and follow the same legislation. I am not a lawyer, and some of my friends from British India have referred to certain sections and certain legal terms, which I will not attempt to use; and again we ask you, My Lord

Chancellor, and our learned friends on the other side, to help us. I want to make just this point clear; we will agree that what we decide in the Federal Legislature we shall pass. Call it sentiment if you like, but all these years the States have been enacting their own laws themselves—often on the model of British Indian Laws, with just a few changes. We want you to realise that it is not a plan to get away from anything, but that it is a matter of sentiment, which I am sure many of our subjects would also like. I want to emphasise that point By a permissive clause, or whatever legal phrase is suitable, give us the chance of passing that legislation ourselves I do not foresee that there will be, in most cases, any peculiar local conditions I read out to you the special clauses from resolutions of the Government of India about the negotiations we recently had in connection with air navigation, railway matters and so on Provide any clause you like I do not want to be free at once to make any changes, but if it is affecting local conditions——

Sir Tej Bahadur Sapru · Does Your Highness mean that you would pass the same kind of laws in your State as have been passed by British India; or does Your Highness mean by common legislation that the laws which have been passed by the Federal Legislature shall be operative by their own force in the States?

H.H. The Maharaja of Bikaner I would like you and My Lord Chancellor, with your great learning, to help us in that by your suggestions. We want you to pass a clause in the Federal Constitution by which it shall be open to the States——

Sir Tej Bahadur Sapru They are two very different legal and constitutional questions.

Sir Akbar Hydari. So far as legislation on Federal subjects is concerned, the Federal Act would be operative *ipso facto*

H.H. The Maharaja of Bikaner I am not sure that is my point.

Sir Akbar Hydari · So far as non-Federal subjects are concerned, it would be by permissive legislation

H.H. The Maharaja of Bikaner. I personally favour, if it is possible, our passing the same law, if you have a permissive clause, and if you have a time limit.

Sir Tej Bahadur Sapru · This raises a very fundamental question I quite understand the line taken by Sir Akbar Hydari, which to my mind means this—that if on the question of Customs and Railways the Federal Legislature passes some legislation, no more legislation has got to be passed by Your Highness in your State. That is operative itself. But if you say that when that legislation has been passed you will pass a similar legislation, then that affects the fundamental authority of the Federal legislation.

Chairman: I understood what you were saying was this: " Well, now, we quite agree that the Federal authority should pass legislation with regard to a Federal subject, but we think there is some-

thing to be said for *amour propre;* there is something to be said for sentiment. There is no question about our not passing it, but we should like to have the *imprimatur* of our authority upon it."

Mr. Jinnah: That raises a very big question.

Chairman: His Highness is putting his point. I am not saying whether I agree or disagree with it.

Mr. Jinnah: Just realise what would be the position under that. It would be this. Although the subject is a Federal subject, although the Federal Legislature enacts a measure, it is still open to each Indian State as a unit to confirm it or not to confirm it.

H.H. The Maharaja of Bikaner: No, I do not say that. We shall bind ourselves to confirm it. I am asking you to help us, if there is any way of meeting that point. We do not want to have the discretionary power of passing or not passing or of ratifying or not ratifying.

Just as we have to talk of numbers, and the powers of the Legislature, we have to take up this question of concurrent legislation. I am appealing to you to tell me if there is any satisfactory solution of this difficulty by which sentiment or *amour propre* can be satisfied. That is all I am talking about. I am even ready to say that if a State does not pass it, then what is passed in the Central House shall be binding without waiting for it to say "Yes" or "No". All these are questions which I would like you to consider. We are evolving a special constitution for States which are without any parallel, and we want you to help us, and if one thing is impossible then we must do the next best thing.

Sir C. P. Ramaswami Aiyar: I do not wish to interrupt His Highness, but there is one point about which I want to be clear in my own mind. His Highness referred to certain laws passed on Federal subjects by the Federal Legislature, which will be afterwards implemented by his own Legislature.

H.H. The Maharaja of Bikaner: So far as our own territories are concerned.

Sir C. P. Ramaswami Aiyar: Therefore the authority for that law would be dual, would be two-fold. In other words, the Federal Legislature will pass a law, but it will still be a law of the Bikaner State, of the Hyderabad State and of the Mysore State, and I will only ask Their Highnesses to consider what the results of that will be, firstly with regard to the intermediate delay in such matters as protective taxation or customs policy, and secondly as to the sources of power and jurisdiction in regard to the treatment of Federal subjects.

H.H. The Maharaja of Bikaner: If there is any solution we might classify them. In certain things you cannot wait, things like taxation. I mean, let us discuss it, and you tell us what can or cannot be done, and then we will go on. I am not insisting on that; I am asking you all to help us. I know that the States have a sentimental feeling about it.

Mr. Sastri: Our fundamental difficulty is this. We are divided politically, we know, into a number of Provinces and into a number of States, each with its political boundary firmly fixed. The whole idea of a federation is that, for a certain limited class of subjects, and for certain limited aspects thereof—in our judgment all too limited—we are coming together for common objects, and these political boundaries which so unhappily divide us, do not exist, they are not there, so far as these purposes are concerned. They are not there. As soon as a law is made it goes right through and touches every subject of the federation, no matter where he lives, in Bikaner, in Mysore, or in Madras or Bombay There need be no further authority to be interposed The very idea is abhorrent to federation

Sir Muhammad Shafi May I be allowed to put the matter in a different form. Your Highness, when once you agree that a certain subject shall be henceforward treated as Federal, you yourself delegate all authority to deal with that subject to the Federal authority.

H.H. The Maharaja of Bikaner And we share it there I realise that.

Sir Muhammad Shafi Just let me complete the sentence You yourself delegate your own authority—in fact, all authority—to the Federal Legislature to deal with it, and when the Federal Legislature is dealing with it your representatives in the Federal Legislature take the fullest possible part in the discussion on that subject; and when the Federal Legislature has passed any measure in regard to that subject, it is with the participation and the approval of your own representatives in that Legislature Therefore I venture to submit that there ought to be no hesitation on your part in saying that, in so far as such a subject which we ourselves have delegated to the Federal Legislature is concerned, we have surrendered our authority · it is the Federal Legislature alone that will henceforward have the jurisdiction to deal with it, and once it has passed a measure it shall be applicable to all India, including the Indian States.

H.H. The Maharaja of Bikaner. I quite realise all that, and I realise, further, that, as Mr. Jinnah pointed out, it is not merely that we are delegating powers, but we share in the sovereign exercise of those powers. I am quite clear on that, but I am trying to meet what might frighten some of the States, if there is any solution that is reasonable and does not hinder the object of the federation and all the points involved. Let us not leave that point unexplored; that is all I ask you; it will make your task and our task easier if it is dealt with. It may be that in the various constitutions mentioned, which I do not profess to know, it will be possible to find a solution. There was a clause which Sir Akbar Hydari quoted just now.

Sir B. N. Mitra · I should like to ask whether there is not a misunderstanding about the whole subject His Highness the Maha-

raja of Bikaner said, what is the reply to the question asked by Sir Samuel Hoare? As I understand Sir Samuel Hoare's point, it refers to a different subject altogether. As I understand it, there will be certain subjects in regard to which, as Sir Muhammad Shafi has already pointed out, powers will be delegated to the Federal Legislature by Their Highnesses. These subjects we have been discussing, and those powers will be delegated and shared; but there may be another class of subjects in which such delegation may not have been agreed to, but in regard to which there may be need for uniform legislation, and I can quite understand this—that following the precedent in certain other constitutions it may be provided in the second class of legislation that it will come into operation in an Indian State only under an Order issued by the ruler of that State, bringing that legislation into force in that State. I think that really was what was in His Highness's mind.

H.H. The Maharaja of Bikaner: I would like to suggest that this point is one on which some of our ministers might ultimately speak, as more qualified than I am—far more qualified. I know that this is a thing to which, from the sentimental point of view, many States will attach importance. I only repeat that it is possible, without undoing our object and doing harm to the whole of India, to explore the subject; and we want your assistance as much as we can have it. May we keep that as a separate point, Sir.

Chairman: Yes.

H.H. The Maharaja of Bikaner: Of course, I make it clear that in regard to non-Federal subjects the States exercise their sovereignty just the same.

Mr. Jinnah: Your Highnesses, may I resume the point which was raised by Sir Samuel Hoare. The point, as I understand it, is this. There will be certain subjects with regard to which the delegation of power to the Federal Legislature from the Indian States would be complete. There may be certain other subjects with regard to which—and this is the point I understood Sir Samuel Hoare to raise—the delegation to the Federal Legislature is not complete, but subject to this, that you may confirm that legislative enactment in your State or you may not. Now, the question was, first, where the delegation is complete, whether that should not be finally to be decided by the Federal Legislature. The second question is that there may be certain matters with regard to which the delegation is conditional; it is a delegation, but conditional, subject to its being adopted by your State or States.

H.H. The Maharaja of Bikaner: I think if this point is to be discussed further, I will ask our ministers to attend, so that you may hear them on the subject. Then I feel that these technical points would be better dealt with.

Mr. Jinnah: May I just finish—and therefore what I want you to do is to consider those two aspects. I do not say that you should give an answer now. Let us keep them two separate things.

H.H. The Maharaja of Bikaner: Thank you very much. Well, I think I may leave that subject.

Chairman: I think so. The point that has been raised has been very clearly put now.

H.H. The Maharaja of Bikaner Then I do not think there is any misunderstanding. His Highness of Bhopal referred to it yesterday, but I want to make it clear that Law and Order will remain with our States With regard to Defence and Foreign Relations, and certain other subjects, if they are going to be discussed we should naturally be very intersted We are deeply concerned in that, and all I will say at present is that the States must claim to share equally with British India any rights of discussing and influencing policy and action in regard to Defence and Foreign Relations, which strictly speaking would, if they were not retained by the Crown, be matters of common concern

Sir Samuel Hoare Perhaps His Highness would rather not do so to-day, but could you give us any idea as to how the discussions upon those subjects would come up?

H.H. The Maharaja of Bikaner Well, Defence, I think, is one of the heads of 11, is it not?

Sir Samuel Hoare: Yes. If you remember, Your Highness, we did have a little preliminary discussion yesterday I think most of us agreed that there would be, in some way, a connection between the Crown representative and the Assemblies, and I wondered whether you had yet formed any opinion as to what sort of form that representation should take

H.H. The Maharaja of Bikaner Well, I think the States would like to hear what is to be said by others before we come in, but I naturally only want to say that we are very much interested, and we must have the right of discussing and influencing policy equally with British India, and that when the Crown transfers the functions of Defence and Foreign Relations, and when these subjects become Federal, their details will be adjusted with reference to the rights of the Indian States, and, naturally, after they have had their say in the matter. That is all I want to say on that subject at present

I do not want to bring up a subject which I do not think falls in any way within the purview of our functions or discussions, but there is an important point which we have brought out which is a matter between the Crown and ourselves regarding certain paramountcy powers. I just want to say that those are matters, even in regard to federation, that we shall have to clear up with the Crown. There are certain matters in dispute That is all I will say at present.

Coming now to administration, and control over subjects, methods of giving effect to a policy, we should like to hear what are the proposals, in what way effect will be given to them, and possibly then we may have something to say; but we quite realise that there must be, in the exercise of Federal sovereignty shared by British India and ourselves, some arrangement made by which these matters

will have to be given effect to and controlled. Otherwise we object to the term "control" as it is loosely used even now—control of the States.

Now, it is not for me to talk of sections of present laws in British India, about which Sir Tej Bahadur Sapru gave some illustrations, but I do conceive that certain of our present laws will have to be changed. In regard to the relations with the States also, as the provisions of the Government of India Act would affect the States in some ways—concurrent jurisdiction as regards criminal laws for instance and that sort of thing—I will not now go into further details; the Government of India Act as regards certain clauses will have to be suitably amended. We want to have our experts to give their views when the time comes, when you are considering what conclusions you will arrive at, some of which were dealt with by Sir Tej Sapru yesterday. There will be certain things arising in that connection.

Chairman: The position is this. We have now discussed, and I think we have got pretty general agreement on the various lines. Item 1, the component elements of the Federation; Item 2, the type of Federal Legislature and the number of Chambers of which it should consist; Item 3, the powers of the Federal Legislature.

With regard to the subjects upon which those powers were to be exercised, I should like to run through them very quickly with you, because what I was going to suggest to you was this. I propose now, with your consent, to draw up a report upon that.

(The Committee adjourned at 1.5 p.m., and resumed at 2.45 p.m.)

NOTE.—*There followed a further detailed discussion of the Central subjects, Devolution Rules Schedule I. As in the case of the previous discussion only such parts of the verbatim report as touched upon questions of principle are here reproduced. A drafting Committee, consisting of His Highness the Maharaja of Bikaner, Sir Akbar Hydari, Sir B. N. Mitra and Mr. Jinnah, was appointed, and this committee submitted a report which is reproduced as the Appendix to the Interim Report of the Sub-Committee.*

Ports.

Chairman: No. 9 in the list of Central subjects reads as follows:—

> "Ports declared to be major ports by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature."

I was wondering whether number 9, in some form or other, ought to be included. You, Sir Prabhashankar, would help us with regard to this, because you are interested in the maritime question. Do you not think ports ought to come provisionally into the Federal list in the same sort of way as they were in the Central list?

Sir Prabhashankar Pattani: By way of policy and legislation, but not by way of administration.

Chairman: Might we do this with regard to that, because the time is coming when we must endeavour to decide as far as we can. We cannot decide everything now I should think we might put down "Policy and Legislation," and with regard to administration let that stand over for the moment It might be a question, Sir Prabhashankar, that when you come in, in your convention you would say "Our ports are subject to this," and so on.

Sir B. N. Mitra: This brings in a general observation, which, as a matter of fact, I was going to make If we put down "Policy and Legislation" we may be confronted with the same difficulty as we were confronted with in the case of Railways In the case of major ports in British India it would not be policy and legislation Therefore the formula must be slightly different "Ports declared to be major ports by rule made by the Governor-General in Council or by or under legislation by the Federal Legislature, subject in the case of Indian States to such authority as may be delegated by the State under convention"

Sir Prabhashankar Pattani Is it suggested that the Governor-General or the Federal Government might declare ports as major ports or minor ports? You know, Sir that the maritime States are in a great minority. British India has a wide seaboard, so that they might consider the question from the point of view of their own interest. There are several inland States, and the majority of inland States are not concerned at all, and they may not feel interested in the question, and the few maritime States might be in such a despicable minority that they might have no voice in the question of whether a port is to be major or minor

Sir B. N. Mitra. You did not listen to my proviso—"subject, in the case of Indian States, to such matters in regard to which" (of course, I am not giving the precise words) "authority was delegated to the Federal Government by a convention entered into by the State."

Sir Prabhashankar Pattani I do not mind that

Chairman · For the moment we will leave it like that

Dewan Bahadur Mudaliyar We are now putting certain subjects, legislation and policy, with the Federal Legislature We exclude administration, and we exclude administration not merely with reference to Indian States, but also with reference to British India. The first difficulty that confronts me is, where is this administrative power to reside? Obviously not with the Federal Government. It must be somewhere else. If, on the other hand, you say that administration with reference to British India resides in the Federal Legislature, then it comes to this—that the Indian States through their representatives exercise a voice in the administration of purely British Indian matters, whereas there is no *quid pro quo* so far as British Indian subjects or representatives are concerned Again, if you take merely policy and legislation into consideration, how that policy is to be enforced so far as Indian States are concerned has been left out of consideration. Obviously

they are going to apply the policy themselves, but so far as British India is concerned I take it that policy and legislation will be applied by the Federal Legislature—in which case, again, the Indian States' representation will have a voice in the matter. It seems to me that the first initial difficulty of placing this administrative power somewhere, so far as British India is concerned, has to be faced. In the second place the difficulty may be overcome (I do not deny it, but it has to be faced) of State representatives having a bigger voice in British India matters than British India representatives have in State matters.

Sir B. N. Mitra: That is all right in theory, but as a matter of practice it is not the Federal Legislature which will exercise any control over administration. It is the Federal Executive responsible to the Federal Legislature which will exercise that administrative power. I submit, therefore, that in practice there will be very little difficulty, because the matter of how the ports are to be administered is quite outside legislation. It is a matter of who will be the officers to control the ports. That will be a matter for the Federal Executive and not for the Federal Legislature, though I admit that the Federal Executive will be responsible to the Federal Legislature.

Mr. Jinnah. That is not quite sound.

Sir B. N. Mitra: In actual practice, in no constitution does the Federal Executive go to the Legislature for sanction of every administrative act

Mr. Jinnah What will you do when you have got the Railways of British India? What will you do with the Services? What will you do with the Finance? How will you deal with the Revenues? Will the Federal Government deal with it?

Sir B. N. Mitra: Yes.

Mr. Jinnah: Will they deal with the Services?

Sir B. N. Mitra: Yes.

Mr. Jinnah: Then the Federal Government will be having a complete voice in the entire management, administrative control and finance of the Railways, so far as British India is concerned.

Sir B. N. Mitra: The Federal Executive will have, undoubtedly.

Sardar Ujjal Singh: If the Federal Legislature does not approve of the action of the Executive in a certain matter, the Executive will be responsible to the Federal Legislature. The Federal Executive will work out the details, but the responsibility will be that of the Federal Legislature.

Sir B. N. Mitra: On that depends the existence of the Federal Executive. If the Federal Executive carry on things which are not approved by the Federal Legislature, that Executive will cease to be in power. Therefore the very fact that the Federal Executive has been brought into existence of itself will be a safeguard so far as the Legislature is concerned for that Federal Executive acting in a way which would not be unacceptable to the Federal Legislature.

Sardar Ujjal Singh: In that way the Federal Legislature be exercising a great amount of control over the activities of Federal Executive.

Sir B. N. Mitra: Indirectly

Sardar Ujjal Singh: So that there the influence of the Stat representatives would be reflected on the Executive, and therefc the States' representatives in the Legislature would be exercising great influence over those subjects

Mr. Jinnah: Exercising their votes.

Sir B. N. Mitra I do not overlook that, but the only alternativ to that is that almost every head here will become partly Federal and partly Central, and that cuts at the root of the idea of Federa-tion. I admit that it will be a very fluid form of constitution, but we have got to devise something We cannot possibly work on iny fixed basis, because the conditions here are peculiar For my-elf I would have felt very glad if Their Highnesses in some of these nportant matters had agreed to delegate their powers to the Federal thority.

Industries

Chairman No 20 in the list of Central subjects is as follows " Development of industries, in cases where such development by central authority is declared by order of the Governor-General in Council, made after consultation with the local Government or local Governments concerned, expedient in the public interest " I sup-ose that would go in *mutatis mutandis*, saying ' Declared by der of the Federal Government made after consultation with the al Government," and so on. Do you agree? I think we are all agreed upon that

H.H. The Maharaja of Bikaner I am afraid the States must ask for that to be left to them, because each State should look after the development of its own industries, as they have done in the past.

Sir B. N. Mitra Certain special cases, where a particular item may be decided on by the Federal and the Central Government in consultation with the unit concerned, I think should be a Federal ubject.

H.H. The Maharaja of Bikaner I am not quite clear on the point What sort of things have you in view? Where will the difficulty come, in as far as the Federal side is concerned whether the States have a voice?

Chairman: Might I ask you this question with regard to that? Assume for the sake of argument a case of this character Suppos-ng you were to come to the conclusion that it would be in the nterests, we will say, of Central India and the United Provinces at there should be a great central power scheme that you should anufacture power at a particular place and then by means of rrent lines sometimes, knowing what length they are, to distribu...

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Sir B. N. Mitra: I do not overlook that, but the only alternative to that is that almost every head here will become partly Federal and partly Central, and that cuts at the root of the idea of Federation. I admit that it will be a very fluid form of constitution, but we have got to devise something. We cannot possibly work on any fixed basis, because the conditions here are peculiar. For myself I would have felt very glad if Their Highnesses in some of these important matters had agreed to delegate their powers to the Federal authority.

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Chairman. No. 20 in the list of Central subjects is as follows "Development of industries, in cases where such development by central authority is declared by order of the Governor-General in Council, made after consultation with the local Government or local Governments concerned, expedient in the public interest" I suppose that would go in *mutatis mutandis*, saying "Declared by order of the Federal Government made after consultation with the local Government," and so on. Do you agree? I think we are all agreed upon that.

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Chairman Might I ask you this question with regard to that? [A]ssume for the sake of argument a case of this character. Suppos[in]g you were to come to the conclusion that it would be in the [int]erests, we will say, of Central India and the United Provinces [tha]t there should be a great central power scheme, that you should [ma]nufacture power at a particular place, and then by means of [...]ent lines sometimes, knowing what length they are, to distribute

it over not only a State but a Province. Supposing, having thought that that was an extremely good thing to do, first of all, you would have to do this: where shall our central power station be? Supposing the Federal Government came to the conclusion: well, the very best place for this is in that plot of land in the State, not in the Province—it so happens having regard to the configuration of the land and so forth that that is the best centre in which to make the power which you are going to distribute over a State and a Province—in a case like that (I am only putting one case) would not it be wise then to say: "The development of industries in cases where such development by Central authority is declared by the Federal Government made after consultation with the State."

H.H. The Maharaja of Bikaner: My reply is that the present procedure is exactly the same. Take the case of development for generating electricity, or take another analogy, that of irrigation.

Chairman: That is another very good example.

H.H. The Maharaja of Bikaner: It is now done by agreements between the States and the Province or the Government of India, as may be the case. If His Highness of Bhopal has a centre suitable for a power house, it cannot, by an order of the Governor-General in Council, or the Government of India, be built in Bhopal State territory unless His Highness's Government give their consent. That is a matter for negotiation and agreement. Similarly, to take another case, I have shared with the British Government in a very big irrigation project, and my Government have another bigger project. That is a matter of negotiation between us and it forms a matter of specific agreement and negotiation. Some States may agree: it is a matter for them. I do not think that as far as I am concerned I could agree that this must be a thing binding the States.

Chairman: What I was on for the present moment was this: first of all, instead of the Government of India being the negotiating authority, the Federal Government will be the negotiating authority.

H.H. The Maharaja of Bikaner: That is a matter for negotiation. I do not want consultation. I know what that word "consultation" means, excuse me. I have in mind the case of a ruler of a State—it is rather going into details—someone who in certain circumstances had to delegate power to another person in the State. The words were used, "in consultation." It did not mean with the sanction or concurrence.

Chairman: Would you accept, only for the moment, "with consent" instead of "consultation"?

H.H. The Maharaja of Bikaner: "Negotiation and consent."

Chairman: Would you agree with this: "Development of industries in cases where such development is declared by the Federal Government made after negotiation with and the consent of the federating unit concerned"—to put it in that form?

H.H. The Maharaja of Bikaner: Then I would have no objection.

Inland Customs.

Lord Lothian. There is one small point on the question of Inland Customs. It is surely quite clear that no Province or no State has the power to add. I think internal free trade is very important. It may be a question for consideration whether an existing State should maintain them. Surely you want to provide for a start that no new tariff barriers will be raised?

H.H. The Maharaja of Bikaner I do not think I can say that on behalf of the States.

Sir Prabhashankar Pattani I have something to say with regard to that, the Customs policy being federal This is only in regard to Customs This principle applied to Land Customs would mean that free movement [illegible] any jurisdiction will be guaranteed [illegible] can charge its own Customs for [illegible] sires, on goods entering within its own jurisdiction and territory The taxation power belongs to the jurisdiction, and therefore to say that no State for its revenue purposes will ever in future be allowed to tax its own people would be rather hard on the States who have been good enough up to now to behave as good boys

Sir Samuel Hoare· Do you mean that you would have 20 or 30 tariff lines?

Sir Prabhashankar Pattani I say it should go, but I only put it for the purpose of meeting the sentiments of those who have got them already. Those who have got them already are the worst culprits.

Sir B. N. Mitra· The Inland Customs we must really in fact divide into two parts; firstly, Customs on goods passing to India across the land frontiers of India, and that must be a Federal subject in the same way as Sea Customs, subject, of course, to adjustments in the case of certain States like Kashmir That is a separate group altogether. Then we go really to the internal Customs and while I fully share the Marquess of Lothian's views if we are to make any progress in this question of federation we ought to leave things as they are and leave it to the Federal Government after it has been constituted to start an economic fiscal enquiry with the object of equalising the incidence of taxation in the various units, and perhaps in that process getting rid of these various impediments in the way of free trade. But if we now ourselves tried to discuss the matter and to get Their Highnesses or even the municipalities and Provinces to get rid of these various items of indirect taxation, we shall never see any light with regard to this problem of federation

Mr Gavin Jones. I would like to put this to Their Highnesses, that, as the Marquess of Lothian has said, I think we should make

it perfectly clear that no further tariff walls should be raised between the various States—no further tariffs beyond what already exist.

H.H. The Maharaja of Bikaner: You mean those States who do not have any?

Mr. Gavin Jones: And those who have—they must not be increased.

H.H. The Maharaja of Bikaner: Then I disagree entirely. We have the right to raise our tariffs.

Mr. Gavin Jones: If you do not allow that, then when you create your Provincial States you must give them the same rights as the other States.

H.H. The Maharaja of Bikaner: Please do not bring us into British Indian affairs. May I make that point clearly? You are asking us to do something which we cannot possibly agree to. We have the right, those of us who have Customs duties, to put on whatever tariff we like, I hope not arbitrarily, but with due regard to our trade. That is a power we are not going to surrender. British India is for you.

Sir Sultan Ahmed: May I make the suggestion that this discussion should now be postponed?

Chairman: I think so.

Sir Sultan Ahmed: Several important members of our Committee are not here.

H.H. The Maharaja of Bikaner: If there is to be any enquiry, and whatever may be the proposal exactly which is in view, which I should like to understand later on more clearly, if there is to be any change on the part of States that now levy Customs duty, or any delegation of authority in regard to inland Customs or maritime Customs, I do not want it to be a result necessarily arising from whatever the findings of the proposed Committee or proposed enquiry suggested by Sir Bhupendra Nath Mitra may be; it must be a matter of negotiation and free and willing.

Sir B. N. Mitra: I have already made it clear that any subject which should be added to the Federal list should form the subject of a separate convention. I think I mentioned that to you yesterday. But once the Federal Government comes into existence, in which Your Highnesses would be equally interested, it would be a function of that Government to start the enquiry. It does not follow that even that Government would be bound by the economic opinions of the Committee. No Government, so far as I am aware, has ever permitted itself to be bound by economic recommendations.

H.H. The Maharaja of Bikaner: The only point is, as I said, that with regard to subjects we have delegated to the Federal body, any recommendations of any Committee will not be binding on the States unless it is by negotiation and free consent.

(The sub-Committee adjourned at 3.50 p.m.)

PROCEEDINGS OF THE EIGHTH MEETING OF SUB-COMMITTEE No. I (FEDERAL STRUCTURE) HELD ON FRIDAY, 12TH DECEMBER, 1930, AT 11 A.M.

Chairman: Your Highnesses and Gentlemen, in accordance with my promise, I have ventured to circulate a draft interim report which in effect puts down not your conclusions but some of your tentative conclusions. I want to point out this, that these are hardly to be called final conclusions; they are not final conclusions, they are tentative conclusions which we have agreed upon and which it may be necessary to modify to some extent when we consider such important questions as the Federal Executive

NOTE.—*The Chairman then read out the draft report which, with certain modifications, was adopted by the sub-Committee and appears below as the Interim Report of the sub-Committee The verbatim report of the discussion, so far as it was concerned with points of substance rather than of drafting, was as follows*—

PARAGRAPHS 3 AND 4.

Chairman (reading paragraph 3 of draft report)

"The sub-Committee's conclusions are as follows —

CONCLUSIONS

I *Component elements of Federation*

3 The component elements of the Federation should be on the one hand (a) the Governors' Provinces of British India."

Sir Tej Bahadur Sapru. I should substitute the words "The Federated Provinces of British India," because that was the whole basis of our discussion—"the Federated Provinces of British India" and not "Governors' Provinces." I do not think Their Highnesses left it in doubt. They wanted to federate with a new India which will consist of Federated Provinces, and that I believe was also the view of my friends over there

Chairman: Shall we say "the Provinces of British India"?

Sir Akbar Hydari · I agree to that

Sir Tej Bahadur Sapru: I do not object to the Provinces, but the Provinces as they are are entirely out of the question The Provinces must be federated, and the Indian States must be federated.

Chairman: We will leave out the word "Governors'" and say "the Provinces."

Sir Tej Bahadur Sapru · That will not satisfy me Let us say "the Federated Provinces of British India" or "the Provinces of British India under the new constitution"—something like that.

A Member I think the word "Federated" ought to be there instead of the word "Governors'."

Chairman: I do not think the word "Governors'" ought to be there.

Sir Samuel Hoare · Is it not too early in the Report to put in "Federated." You deal with that point in paragraph 4.

Chairman: It is explained afterwards in paragraph 4.

Sir Muhammad Shafi: This says "component elements of Federation." "Federation" is already there, and it should be "Provinces of British India" and so forth.

Sir Tej Bahadur Sapru: No. My point is this. If you have the word "Provinces" without the word "Federated" then it means that each single Province may federate; and in principle I am absolutely opposed to that. The Provinces have to be federated if my friends want them, from their point of view, to be sovereign Provinces; otherwise they defeat their own object.

Chairman: I think you will find it is provided for when we come to paragraph 4. I quite see Sir Tej's point. I am not for a moment saying that I disagree with him. When he comes to paragraph 4 I think he will find that what he wishes is provided for.

Sir Tej Bahadur Sapru: Then I will reserve my opinion in regard to this matter. If I am satisfied that paragraph 4 brings out that idea, I will agree; otherwise I cannot agree.

Chairman: Thank you. "The Provinces of British India, and the Provincial areas of British India now directly administered by the Central Indian Government."

Sir B. N. Mitra: "Provincial areas of British India now directly administered by the Central Indian Government." Does that assume that any such area as the Andaman Isles or Baluchistan will become component elements of the Federation? This is a point to which I referred on a previous occasion, namely, that some of these areas will, for the moment, have to be treated like territories, and provision made for their reaching full stature later on.

Chairman: Let me look it up. There is Delhi. There is Ajmer, 2,711 square miles; population, 495,271. There is British Baluchistan, 54,228 square miles; population, 420,000. Then there are Coorg, the Andamans, and Nicobars. What are the words you suggest, Sir Bhupendra? Would you like to put in the words "Delhi, Ajmer?"

Sir B. N. Mitra: "The Federating Provinces of British India." Those will come in the first federation. That may also meet Sir Tej's point; and there should be a provision, exactly as in clause (*b*) for the other areas. In time to come Baluchistan may become a full unit of the Federation.

Chairman: Shall we say "such provincial areas of British India now directly administered by the Central Indian Government as may be agreed upon." Is that all right, Sir Tej?

Sir Tej Bahadur Sapru: I am afraid that will not cover it. The words "directly administered" introduce to my mind a great legal difficulty. You have a small Province, or a city by itself, like Delhi, administered by the Chief Commissioner. Similarly, you have Ajmer which is administered by the Chief Commissioner. Similarly, you have a very big province near the North-Western Frontier which is administered by the Chief Commissioner. As I

matter of fact, though the administration has been fixed there is responsible to the Central Government There is no Province, there is no part of India, which the Central Government directly administers That is the whole mistake The Central Government has no administrative machinery It has a controlling and supervising machinery.

Mr Jinnah: May I make a suggestion, namely, to leave out this clause and to say "3. The component elements of the Federation should be on the one hand (a) the Federated Provinces of British India." If you have that I do not see why it is necessary to have (ii) at all. When you have decided upon the Provinces, they would be federated, and they would form the component parts.

Sir Tej Bahadur Sapru In addition there would be within the ambit of the activities of the Federation other areas.

Mr Jinnah: They will be provided for

Sir Tej Bahadur Sapru · Provincial areas of British India now directly administered by the Central Indian Government" will introduce very great complications, both legal and administrative

Sir Muhammad Shafi The word "Governors" having been struck out it leaves it to read "Federated Provinces of British India."

Chairman: I agree with what Sir Tej says but I think as a matter merely of correct drafting, we cannot say "Federated" because by the hypothesis at the moment they are not federated Shall we say "federating"?

Sir Samuel Hoare Yes

Sir Tej Bahadur Sapru "Federating" will be more accurate

A Member I prefer the word "Federated"

Chairman · We cannot say that because it is not a fact

Mr Jinnah · "The component elements of the Federation should be on the one hand" what?—Provinces which are federated Until they are federated they cannot be component elements. But I do not mind whether you say "federating" or "federated"

Chairman: We can all agree on "federating" and cannot we put that?

Mr. Jinnah: Yes.

Chairman: We can cross out "(ii)" altogether

Sir Tej Bahadur Sapru Yes, that meets my point, "(ii)" goes out.

Mr. Jinnah · Yes, "(ii)" goes out

Sir Muhammad Shafi: and "(b)" after the words "on the other hand," the words "such of the Indian States as agree to enter the Federation."

Chairman: Certainly.

out that it may be necessary when we come to discuss the Central Executive to qualify that word adverbially, but at the present moment the word "released" meets both your views.

Paragraph 6.

Chairman (reading from paragraph 6): "So long as there are any reserved subjects it will be necessary for the Crown to be represented in both Chambers."

Sir Tej Bahadur Sapru: May I ask one question. What is exactly intended to be implied by the sentence—"So long as there are any reserved subjects it will be necessary for the Crown to be represented in both Chambers"?

Chairman: What is meant by that sentence is this. It is a little complicated, and I had better go rather slowly. Supposing the Army is put down as a reserved subject. In my view the mere fact that it is a reserved subject ought not to have this effect: that all discretion on the Army is entirely withdrawn from the Legislature.

Sir Tej Bahadur Sapru: I welcome that.

Chairman: Let me finish, if I may. That is the present position. Therefore I want to guard, in the interests of India, against any suggestion here and now that that would be so. It may well be that when you come to discuss the Army in the Federal Legislature, it being a partly reserved subject, you will want some official information with regard to it, and it then may be, and probably will be necessary to have some officials there in order that they may tell you what the position of affairs is.

Sir Tej Bahadur Sapru: I quite appreciate that position, and I understand thoroughly that if there are to be certain reserved subjects there must be some arrangement for the representation of those subjects in the Assembly.

Chairman: That is all that is meant.

Sir Tej Bahadur Sapru: But there are two ways, one of which is followed in certain constitutions, namely, that it is open to Ministers to send any official they like to explain any particular matter about the Army. Another is that the representation will be by full fledged Official Members. In other words, if you have full fledged official Members you again create an official bloc. I have no objection at all to what Your Lordship said just now; all I want to be quite clear about is whether it is intended to keep an official bloc.

Chairman: No.

Sir Tej Bahadur Sapru: Then I take it that what is in Your Lordship's mind really is that it shall be open to the Governor-General to send any officials he likes to explain things. But will those members exercise the full privilege of voting and of taking part in the discussion?

Sir Samuel Hoare: Lord Chancellor, we have not discussed that question, and I should have thought we ought to have left it open at this stage. I said—as indeed you said—that I did not contemplate anything in the nature of an official bloc with a big voting power; but I wish to keep my mind quite open as to whether the representatives of the Crown should be voting Members of the Chamber, or should come in merely as Ministers to discuss questions affecting their interests. This sentence here leaves the issue open, and I should have thought that at this stage we must certainly leave it open.

Sir Tej Bahadur Sapru: May I explain a little further so that Sir Samuel Hoare may appreciate my point of view. Supposing that the Army is a reserved subject. I presume the Army will be administered by the Minister appointed by the Viceroy. Speaking for myself, I should not object to that Minister coming in and exercising the privilege of a Member, but what I would object to is your sending in a bloc of ten or fifteen officials.

Chairman: This sentence is simply to preserve the point in all your interests. It does not prejudge it. All it does is to preserve it Look at it for a moment; " So long as there are any reserved subjects it will be necessary for the Crown to be represented in both Chambers." It does not say whether the Crown will be represented by people who merely come there for discussion. It does not say that the Crown will be represented by people who come there with the power to vote It does not say that the Crown will be represented by such a large number of people that it will be an official bloc—which I will fight against till I am finished; I will not have it All it does say is that the Crown must be, somehow or other, represented, and when we come to the question of the Federal Executive that is one of the points we have got to clear up

Mr. Jayakar: Does it leave the question open as to whether there will be any reserved subject at all? If so, may I suggest that the phraseology be slightly altered—" If and so long as there are any reserved subjects."

Chairman: I will accept that.

Paragraph 8.

Chairman (reading from paragraph 8). " It is of the essence of a Federal Constitution that the enactments of the Federal Legislature acting within its legal scope should have full force and effect throughout all units comprised in the Federation."

The next thing is put in for the sake of the Princes: " But as the States naturally attach importance to the legislative powers which they at present possess, it may be reasonable to include a provision (ample precedent for which can be found in other Constitutions) whereby, [illegible] formal action on the part of the State [illegible] era-
tion of a Federal [illegible] ates

that to meet the possibility of an accidental failure so to re-enact or proclaim the enactment (wilful neglect being a contingency which need not be contemplated) provision might be made for the automatic application of the law after the expiration of a fixed period."

Down to there it is the suggestion of the States. The next thing is the one you have got to consider: "We recommend accordingly the adoption of machinery devised on these lines." What do you say about that?

Mr. Sastri: I move that the sentences put in to bring in the point of view of the States be deleted. They seem to me to render the preceding sentence nugatory.

H.H. The Maharaja of Bikaner: Is not there ample precedent to be found in other Constitutions?

Mr. Sastri: Not with reference to the whole series of matters embraced in Federation, but with reference to a certain class. That was pointed out very clearly by speakers on this side.

Sir Tej Bahadur Sapru: I understand Their Highnesses' position to be this—and I want to be corrected if I am wrong—that in regard to a certain class of Legislation they would like to continue the power which they enjoy as Heads of their States to pass legislation of that character in their own States, and further that if they failed to do so then any legislation to that effect might be passed in the Federal Legislature. But I did not understand Their Highnesses' position to be that in matters like Customs Tariffs or Railway Legislation, or things of that kind, the legislation which will be passed by the Federal Legislature will not automatically apply to their States, and that it will have to be supplemented by some other act; and, if Their Highnesses mean that, then I would ask Their Highnesses, in the interests of the Federation which they have at heart, to revise their view on this matter, because it will expose the whole thing to very serious criticism. I understood Their Highnesses' position to be that in regard to certain legislation which may be passed by British India, "We reserve ourselves the liberty of passing similar legislation"; but with regard to the other legislation of an All-India character, such as Customs and Railways and Post Office. I beg them to consider whether the whole fabric will not be destroyed by their insisting on passing legislation. We will be exposing ourselves to very serious criticism in British India, and among constitutional lawyers, and there will be very serious conflict and friction. I can quite understand Their Highnesses' position that in regard to legislation which I will describe as Class B, they will have themselves the power of passing legislation, but in regard to Class A legislation, in which I include All-India subjects, such as Customs and Railways, the matter is different. Otherwise there is no such thing as federation in regard to policy and legislation. I beg Their Highnesses to reconsider the position, as it will materially affect our whole attitude towards this federation idea.

ir *Prabhashankar Pattani*: I am in Customs union with the ernment. They pass the tariff; they send it on to us, and we omatically apply it as our own legislation. We adopt it. We e no choice but to adopt it. The whole thing is working the principles established in British India. Whenever a law th regard to any federal subject is passed, and the States adopt as their own legislation and work on the same system, would ere be any objection to that?

Sardar Ujjal Singh: At present there is no Federal Government.

Sir Prabhashankar Pattani It is a question of legislation It is a union regarding legislation

Sir Tej Bahadur Sapru It is not union: it is federation There is a world of difference from a constitutional point of view between Federation and Union If there is going to be a real genuine Federation, then it will be the Federal Legislature which will pass the law which will be operative both in British India and in the States, and you cannot then say "we shall, as a matter of courtesy, pass the same legislation" That is not federation at all.

Sir Mirza Ismail · I only wish to say that I quite agree with Sir Tej Sapru in what he has said about this kind of legislation

Sir Samuel Hoare My Lord Chancellor, I agree generally with Sir Tej Bahadur Sapru's object We are very anxious to make it a real Federation and to avoid as far as we can any possibility of the States not accepting Federal Legislation Holding that view, I was wondering whether it would have been better to have left out the two lines at the end "We recommend accordingly the adoption of machinery devised on these lines," and to have put in its place some quite non-committal sentence such as this "Questions of this kind must be considered in detail at the further stages of the negotiations which must precede the creation of a Federal Government"

Sir Mirza Ismail I should omit the paragraph altogether

H.H. The Maharaja of Bikaner: I quite agree that there should be Class A and Class B; that is my own personal opinion.

Mr Jayakar. Is what His Highness called Class B included or not included in the subjects in our Federal list?

Sir Tej Bahadur Sapru: It is not included.

Mr. Jayakar: Will they all be Class A?

Mr. Sastri: They will all be Class A.

H H. The Maharaja of Bikaner: We might look into that agree to the principle of A and B.

Chairman: Subject to what you say, we have now got ag ment to a very great extent, and if it is all Class A the Pri list. I do not say it is, but it may be all Class A.

us for the moment leave this out. If we find that something has got to be done, let us come back to it later. Just for the moment I think we are agreed to leave it out.

H.H. The Nawab of Bhopal: May I make one point clear about this Legislation. I want to know if the States would be free to legislate as regards Federal subjects for local purposes as long as such local legislation does not in any manner override or adversely affect the Federal law.

Sir Tej Bahadur Sapru: If I may say so, the answer to that would be that so long as you pass legislation which is not inconsistent with the Federal legislation, you are at liberty to do so.

Chairman: That is so.

H.H. The Nawab of Bhopal: Cases may occur in which we may want to do that.

Chairman: You are masters of any legislation which does not conflict with the Federal legislation.

H.H. The Nawab of Bhopal: Which does not in any manner override or affect adversely.

Chairman: Well, whatever the words are.

H.H. The Maharaja of Bikaner: Shall we leave it at Class A and Class B?

Chairman: Yes. "But as the States" down to the end, is left out.

Paragraph 9.

Chairman (reading paragraph 9 of draft): "Provision should be made for additions from time to time to the list of Federal subjects, but only after agreement in respect of each such subject between the Federal authority and the component units of the Federation."

Mr. Sastri: Now, Sir, there is a point I wish to raise about this. The meaning of this is not clear to me. Does it mean that there should be an agreement arrived at apart from the usual procedure of previous consultation and legislation? That is to say, supposing the Federal authority has legislated in respect of certain matters, would it afterwards require a separate agreement with each State?

Chairman: No; it is additions; there will be a list containing 27 things. Later on, as I hope will happen, you will have 28, 29, and 30. All this says is that provision must be made for that.

Mr. Sastri: When we add 28, would it not be the usual procedure for the Federal authority in which all the States and groups of States are represented, to legislate in the usual way, adding No. 28 to the list? I am trying to understand this. Or would it be necessary that the Federal authority should treat with each individual State thereafter?

Chairman: Yes.

Mr. Sastri: It would be exceedingly difficult if that latter procedure is prescribed; and that would be the meaning of putting that specially here.

Chairman: It is; that is the meaning

Mr. Sastri: It would be impossible, whenever we wanted a new subject added to the list, to get the individual consent of all the 500 States or the 200 groups of States; that would involve blocking the whole process of this machinery that we are now devising. It would be sufficient I think to leave it so that the usual legislative procedure could be adopted

Sir B. N. Mitra: It would create a deadlock. Supposing there were 20 units representing the States, suppose 19 agreed and one did not, what would happen?

Mr. Sastri: The constitution would be blocked You have said here that provision must be made for the constitution to develop; we shall now in effect be making a provision in the contrary direction.

Chairman: I am going to meet all your points I think your point will be met if you leave out all the words from "but" down to the end of the introduction Then it will read, "Provision should be made for additions from time to time to the list of Federal Subjects," and we can decide later on how it is to be done.

Mr. Sastri: Very good It will be done by some constitutional procedure

Chairman: Yes, provision should be made for some constitutional procedure; that means not *vi et armis.*

Mr. Gavin Jones: Does not that imply that residuary power is left to the Federal Government?

Chairman · No, it does not raise the question

APPENDIX, ITEM 10

Sir Akbar Hydari: With regard to the word "adjustment" which has been used there, I was assured it included adjustment on account of sentimental grounds. I myself was doubtful whether adjustment did not only include materialistic considerations

(The sub-Committee adjourned at 1-35 p.m.)

PROCEEDINGS OF THE NINTH MEETING OF SUB-COMMITTEE NO. 1 (FEDERAL STRUCTURE) HELD ON THURSDAY, 18TH DECEMBER, 1930, AT 11 A.M.

Classification of Central and Provincial Subjects.

Chairman (Mr. Lees Smith): Gentlemen, the Lord Chancellor has asked me to explain to you that he has had to go to another engagement this morning, and he has put upon me the task of

represented, at any rate in the Upper House, and perhaps in the Lower House—although that is not decided finally.

H.H The Maharaja of Bikaner · I think it was decided

Sir Samuel Hoare: It was decided as much as anything else

Chairman: Very well, in the Upper House and in the Lower House

Sir Akbar Hydari · May I query the word "decided"?

Chairman. It was merely an expression which I happened to use It leads to this position We do not know what provisions will be made yet for British India subjects as distinct from Federal subjects. We have not decided how they are to be dealt with—whether it shall be on the in-and-out principle or some other, but the point with which we are left is that we may have to make provision for subjects of that kind If you will bear that in mind as the main reason for the discussion on which I am going to ask you to enter, and if you will then allow me to go through this paper which I have explained and which you have before you, I think I can perhaps put before you in two or three minutes the points which are going to arise

May I say that on consideration I think it will be better to take heading (*b*) before heading (*a*) I will take it in this order heading (*b*), heading (*a*), heading (*c*); heading (*d*) is not of great importance, and heading (*e*) we need not discuss at length here I should, however, like to say something upon the points raised in heading (*b*), heading (*a*) and heading (*c*)

Heading (*b*) arises in this way It arises inevitably out of what we have done. If you turn to our Report to the Committee of the whole Conference you will find in the Appendix on page 4 the list of subjects which we have declared to be Federal We have taken that list from the Devolution Rules, but twelve of the subjects included in the Devolution Rules we have not declared to be Federal Those twelve subjects are the subjects contained in the list under heading (*b*) in the paper circulated to you last night

Lord Reading · Does it include them all?

Chairman: Yes, it includes all the subjects in the Devolution Rules which are not in this Schedule to our Report as Federal subjects; not the Crown subjects.

Lord Reading: That is the exception?

Chairman · Yes. I should have explained that at our previous meetings we have excepted Crown subjects from our discussions.

Lord Reading. It excepts 1—4, which are all Crown subjects.

Chairman · That leaves us with twelve subjects which *prima facie*, would be the main content of what I would call British India subjects. But here there is a question on which we must have some general discussion, and, I hope, some decision It has been suggested that there may be no need for any British India subjects at all; that those which have not been federalised might be provin-

cialised, so that this list would fall out, and if that were so the Constitution would be a very much simpler one than it would be otherwise. That is a question on which I will ask for discussion.

Mr. Sastri: That would be going back on a former decision.

Chairman: I do not think so. I have read the paragraph: "With any subjects which cannot be either federalised or completely provincialised."

Sir C. P. Ramaswami Aiyar: On the last occasion there was a fairly full discussion, and opinions were expressed with regard to this question of the powers of the Central Legislature and Government in matters which might be called Central as opposed to Federal; and in the Report you will find it is put pretty clearly. Paragraph 4 says: "So far as British India is concerned, the federating organisms will be neither the Government of British India as it exists at present nor autonomous Provinces released from the Central tie." In the course of the discussion with reference to the insertion of that sentence there was a very thorough argument with reference to this matter, and I think the opinion was very clearly expressed to the effect that what was envisaged was not Provinces and the Federation (as two compartments) but also the Central Government exercising certain powers in respect of the Provinces. We wanted to make that clearer, but we were assured by the Lord Chancellor that the mater was perfectly clear as it was.

Sir Muhammad Shafi: On that last sentence we reserved our right to discuss the matter when it came up finally, because this is somewhat inconsistent with a preceding paragraph in that very Report. I think it really does not matter. Let us go straight to the point of the subjects which are to be federalised. What is the use of inviting attention to general principles? Let us settle the question, what subjects are to be federalised and what subjects are to be provincialised, and, if any are left which you may call Central, what provision during the transitional period should be made for the administration and control of those.

Sir C. P. Ramaswami Aiyar: I am perfectly willing to adopt that suggestion, but let it be very clearly understood that I do not envisage this as transitional in any sense, because as far as my mind can picture the future, there will be a Central Government *vis-à-vis* the Provinces, and I do not wish that the position of some of us should not be elucidated at a very early stage.

Chairman: I would prefer not to carry on this discussion at the moment, because I am coming back to it. I put it in that way because I knew there would be some slight discussion on the principle.

There will be this list of twelve subjects on which we have to come to some conclusions. Now may I go on to explain what will be the subjects raised now on heading (*a*), and why that heading has been inserted. The sub-Committee will see that the main purpose of this paper is to try to come to some idea of what will

be the content of what we would call the British India list. The first content will be these subjects under (*b*). Now I come on to further items in the content which will arise under this heading (*a*). It arises in this way. If you look at the list of Federal subjects in the Appendix to our Report, you will see there are a certain number of subjects which, although they are Federal, are not completely Federal. Policy and Legislation are Federal but Administration in many cases is *not* Federal.

Those provisions were introduced on behalf of the States. It raises the question of what is to be the position of the Provinces in this particular group of what we may call partially federalised subjects. I rather hope, if I may say so, that we shall *not* be compelled to go through the list item by item; perhaps a general discussion will enable us to come to sufficient conclusions to proceed upon it. But we shall have to have some discussion as to whether in this particular class of subject the administration should be provincialised, or whether the administration should be carried on, as hitherto, from the Centre. I hope I am making that clear. That is why that heading is being included.

Sir Muhammad Shafi: Mr. Chairman, can we come to a conclusion on that subject without dealing with each one of these items? I fancy there might be distinctions drawn in connection with some of the items. With regard to some of those items, it may be that all will agree that administration should be provincialised, and it may be that with regard to some of the others some other machinery may have to be devised. But can we discuss this matter as a whole? If it is to be discussed at all, then I venture to think that as far as possible all administration of all these subjects should be provincialised, policy and legislation being in the hands of the Federal Government and administration in the hands of the Provinces.

Chairman: We shall perhaps see when the discussion takes place in a short time, Sir Muhammad. I may say the idea in my mind and the Lord Chancellor's mind is that you will find that we are now approaching the area which is not entirely in the purview of this Committee; it is also partly within the purview of the Provincial Constitution Committee, and I think it is probable that I shall suggest this at the end of this discussion. We had considered appointing a joint sub-Committee partly from this Committee and partly from the Provincial Constitution Committee, and probably a great deal of these discussions item by item will have to be remitted to that joint sub-Committee. I hope so, because I recollect that merely the drawing up of the list of the Federal subjects took a week of this Committee, and we shall be here a very long time if the whole of this Committee of thirty members is going through the various lists subject by subject.

Mr. Sastri: Then why not adopt that procedure straight away? There is no need for us to waste time.

Chairman: I think we must have a general *discussion at first*.

Sir Mirza Ismail: Can we not come to some tentative conclusions here in this Committee as regards those subjects which are partly Federal and partly Central?

Chairman: Yes, I think we can; I will ask for a short discussion, and very likely we shall see that it need not be very long. Then may I come to head (*c*), in order to explain why that has been included in this list? Here is the list of subjects, in which certainly the Provincial Committee is as much interested as we are. This is the list of subjects which are Provincial subjects, which are included in the Devolution Rules as Provincial subjects, but on which there is power of what one may call concurrent legislation with the Centre.

Lord Peel: At the present time?

Chairman: Yes, at the present time. Of course. I am not as familiar with this; I merely know on this what I am told, but I gather the broad position is that on these subjects both the Centre and the Provinces can legislate, but that the usual procedure is for the Provinces to obtain the sanction of the Centre before they legislate. They are subjects where uniformity is required, and so on; you will know the reasons. Now here again we shall have to come to some decision as to whether this power of what I call concurrent legislation—these concurrent powers, as they have been with the Centre hitherto, are to be with the new Centre, with the new Federal Government, or whether any change will be needed. You will see the reason why that is inserted. Now I do not think I need trouble you with (*d*): that is much more a question of detail, and if we decide to set up a joint sub-Committee, that would certainly deal with item (*d*).

Lastly, (*e*)* is here inserted, although it is not so closely connected with the other headings as the remainder. It raises this question. There are Provincial subjects which are admittedly purely Provincial on which the Central Government has no concurrent powers; but in some of them it is laid down at present that certain general powers of intervention—not on any particular subject, but general powers—are left with the Central Government; for instance, it is laid down with regard to powers for safeguarding the administration of Central subjects and for safeguarding the performance of certain Statutory duties imposed on the Government. I do not think that will need long discussion, but it may be advisable to have a few words on whether and to what extent this should be retained.

That I think gives you the main questions which this paper raises, and if you think that will be the best method of proceeding, I propose to begin with B and ask for observations on heading B; then go on similarly to headings A and C. That heading you will see raises a subject which I do not think can be submitted to a

* This category was not referred to the Joint sub-Committee and does not appear in the Tabular Statement attached to their Report (*vide* paragraph 39 of the Second Report of the Federal Structure sub-Committee).

joint sub-Committee; it raises issues which are primarily our own; it raises the question of what is to be done with those subjects which are at present central subjects and which we have not declared to be Federal.

Sir Tej Bahadur Sapru: May I ask one question, just to understand the position? I am not making a speech at all. You see here "Central subjects provisionally put down as Federal subjects to the extent to which they have not been federalised" What is the class of subject that you have in view? Taking the list which you have here "the enumeration is that of the present list of Central subjects, Devolution Rules" *The notes show the extent to which the subjects have been federalised?*

Chairman: Yes.

Sir Tej Bahadur Sapru: If the notes show the extent to which they have been federalised, then what is the exact meaning of "to the extent to which they have not been federalised"?

Chairman · Administration. Take "Railways, the administration to be Central to the extent of powers now exercised by the Railway Board."

Sir Tej Bahadur Sapru · The meaning of that, as I understand, is that it is apart from policy and legislation

Sir Muhammad Shafi: The residue

Sir Tej Bahadur Sapru Do not use that vague word, because that may mean anything or nothing.

Chairman: Sir Tej, I propose now to discuss (*b*) before (*a*); would it be more convenient if you raised that on (*a*); or would you like to raise it now?

Sir Tej Bahadur Sapru · I am not satisfied with this expression: "to the extent to which they have not been federalised." This may give rise to very serious trouble. If by that you mean administration, then use the simple word "administration"; but if the phrase "to the extent to which they have not been federalised" means all the residue, then we do not know where we stand.

Sir Samuel Hoare: I should have thought, Mr. Chairman, you could really deal best with it when you come to it subject by subject. I mean you would take the cases of the Railways, Post Office, and so on. I agree with Sir Tej; I do not like these general expressions at all We shall then see the thing in a concrete form.

Sir Tej Bahadur Sapru · That is exactly what I mean, but if by this phrase "to the extent to which they have not been federalised", you mean administration of those subjects, then I say do use the expression "administrttion". Otherwise the words "to the extent to which they have not been federalised" may mean something more than administration.

Sir B. N. Mitra: I may perhaps say something which might make the position clear to Sir Tej. Take for example item 11 in

the Devolution Rules, Customs. There are no Cotton Excise duties now. The whole question of Income Tax will have to be discussed, and Income Tax may have to be made a Central subject, to find the revenue to meet the expenditure of the residual Central subjects.

Sir Tej Bahadur Sapru: That is not my meaning, Sir Bhupendra. What I really mean is this: if policy and legislation has been federalised, then what remains? You must define it, otherwise you leave everything vague.

Chairman: You are rather raising the issue as to the actual words which have been used.

Sardar Ujjal Singh. It is not exactly that. What I understand from Sir Tej is that we should not leave (a) where it is; we should discuss all those subjects which are left undefined, and Railways, Revenue, Administration, or whatever is left of all those subjects which have not been federalised or entirely federalised ought to be specified; the subjects should be enumerated and not put in general words.

Chairman: Yes I think we understand Sir Tej's point. This particular agenda which has gone out or anything which is entered in any notes has not any permanent value. The actual words we shall use will be decided by this Committee. I think we might now begin on (b) and ask for your views.

Sir C. P. Ramaswami Aiyar: With regard to the ruling as to dealing with these subjects in any particular order, may I suggest that convenience seems to dictate that you should deal with (a) first, for this reason: there can be no question that this Committee is solely and fully competent to deal with the Federal subjects, whether that federation is wholesale or partial. With regard to (b) there may be controversy as between the Provinces and the Centre. Such a controversy cannot, I submit, arise normally in regard to subjects in (a), and this Committee would be fully competent to deal with all the subjects in (a). We may then have the ground cleared as to (a); with regard to (b) there may be a partial discussion here, and it is just possible that there may have to be a joint consultation and discussion. Dealing with (a) first would have this advantage, that we would be dealing with a subject in regard to which we are fully competent to deal.

Sir Sultan Ahmed: I do not know whether that would be the same thing, because we do not know what the powers excluded from the Central Legislature will be, or the position of the Executive.

Sir C. P. Ramaswami Aiyar: All I am saying is, you should be competent to deal with it.

Sir Sultan Ahmed: I think we are competent to deal with all of these.

Sir C. P. Ramaswami Aiyar: Yes, but not exclusively.

Chairman I think you will find, when you get to [illegible] that it is one of those subjects which you may remit finally to a joint sub-Committee with the Provincial sub-Committee, because I think they may claim that they have the right to be heard.

Sir C P Ramaswami Aiyar I see that.

Chairman I was rather selecting (b), because that is more clearly our business and our business alone.

Sir B N Mitra If you look at item 41, it says, "Legislation in regard to any Provincial subject", etc. There, too, we shall have to have a joint discussion with the Provincial Committee. While I am quite willing to take these subjects in any order you may decide I think we shall have to consult the other sub-Committee or its representatives with regard to every one of these groups.

Chairman We may.

Sir Akbar Hydari Sir, I think it would be preferable if (b) and (c) are taken before (a) because unless we know whether there is really a large body of Central subjects remaining over, we shall not be able to ascertain as to what will be the content of the subjects which will be dealt with by a Legislature with the Indian States coming in. It will only be after you have looked into (b) and (c) that we shall be able to say as to how far you can go with regard to (a).

Chairman Well, that may be. At any rate if the Committee will permit me, we will start with (b). Whether we go on with (c) or (a) we might determine; it might be cleared up by the discussion itself. Will that suit the Committee?

Members Yes.

Sir Sultan Ahmed Mr President, may I be permitted to make a few general observations with respect to (b)?

Chairman Yes.

Sir Sultan Ahmed I would again appeal to Their Highnesses and to the representatives of the States that some of these subjects which are enumerated in (b) can very well go into the Federal list subject to such provisions as might enable Their Highnesses and the other States to pass enabling legislation in the Federal Assembly so that that may, after these laws are passed in the Federal Assembly, be applicable or adoptable in the States. For instance take 16, "Civil Law including laws regarding status, property, civil rights and liabilities and civil procedure"; or 30: "Criminal Law including criminal procedure". At present the [illegible] that most of the States adopt the laws passed by the Legislative Assembly or the Council of State, the Central legislature, that is adopted by them with slight necessary modifications which they consider proper in their own States. Take the Penal Code, the whole of the Penal Code is applied to most of the States with one or two other offences especially thrown in. For [illegible] take Kashmir or the other Hindu States [illegible]

infringing on or interfering with Your Highnesses' sovereignty or the internal autonomy of your States, is not it to your Highnesses' interest as well as to the interest of all India that such provision should be adopted?

I once again invite the attention of Your Highnesses to the precedent afforded by Section 94 to the Canadian Act, to which I referred in my speech the other day For the purposes of securing uniformity Section 94 gives the Federal Parliament power to pass certain legislation, but it is provided that any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province—which means in any unit—unless and until it is adopted and enacted as law by the Provincial Legislature, so that no Act of the Federal Parliament intended to secure this uniformity will become operative in your Highnesses' States unless Your Highnesses' States, subsequent to the enactment of that law, adopt it in respect of your States.

I venture to appeal in all earnestness that, in the interests of this uniformity, it is desirable, only with regard to certain laws, that Your Highnesses should consider favourably the suggestion I put forward.

H.H. The Maharaja of Bikaner When I came here this morning I, and I think I can say all my colleagues, thought that these subjects were for British India and the Provinces to consider, and we hoped we should have to say very little or nothing about them, unless some question affecting the States was involved, directly or indirectly. I do not propose to-day to go at length into all the discussion and the points raised during the first part of our sittings, before we reported provisionally to the Committee of the whole Conference, and all I was originally intending to say was that we took it the question of Central subjects was one for British India, and that the States, unless they felt they were concerned in some way, would have nothing to say in the discussions to-day.

With reference, however, to the appeal which has been made to the States, I am afraid I must make it clear beyond any possible doubt that it is absolutely impossible to expect the States to agree to give up their sovereign rights of legislating I am very sorry, but I must say at once that it is impossible for any of us to agree to the States giving up their power in that respect However anxious we may be to secure uniformity wherever possible we cannot accept that. I hope we have also made it clear that for the present the list of Federal subjects which we have prepared is the list which we feel represents the extent to which we are prepared to go If any particular point in regard to any other matter especially arises we might consider it. but with regard to legislation and other important matters it is only fair that I should say frankly and at once that it is impossible to expect a single State to agree.

Diwan Bahadur Mudaliyar: In view of what His Highness of Bikaner has said, my position is very much simplified; but I should like to reply to some observations made by my friends on this side of the table. With reference to what Sir Muhammad Shafi has said with regard to federal units adopting normative legislation, I should like to point out that the section of the Canadian Act to which he referred makes it perfectly clear that every unit of that federation is in the same position and may or may not adopt normative legislation passed by the Central Legislature. Here, on the other hand, we visualise a position where the Provinces will be immediately bound by Federal legislation, but where it is left to the discretion of the States to adopt or not to adopt it as they choose. The parallel of the Canadian Act does not apply here at all, therefore, for although the Provincial units will be bound by this legislation, the States will not be so bound.

Secondly, if you are going to leave it to the States to adopt that legislation or not as they please, you are in exactly the same position as you are in to-day. At present the Central Legislature has passed certain laws which the States have in many cases adopted. You do not carry the process of uniformity any further by adopting the suggestion which has been made, and you may just as well leave the matter to the good sense of the State, and to the States' Legislatures where they exist, to adopt such legislation, instead of having the cumbrous process of having normative legislation enacted, in the remote hope that the States will adopt it.

Thirdly, the States have peculiar characteristics of their own and peculiar circumstances arise in States which make it necessary for them to amend certain Federal or Central laws which may be passed by the Central Legislature, and in States where Legislatures exist the subject will have to be debated again by those Legislatures, so that the amount of normative legislation capable of adoption will be very small when once you give the right of discussion and voting to such State Legislatures as exist.

If the States are to be in that position, I, coming from British India, feel it will be invidious if legislation which automatically applies to me is to be discussed and voted on by the representatives of States, in the absence of any reciprocity. On these grounds, and apart altogether from the ample reasons to which His Highness of Bikaner has referred, I should hesitate to accept, if indeed I did not oppose, the proposal made by my friends here.

Sir B. N. Mitra: This point raises questions to which Mr. Joshi and Dr. Ambedkar referred in the last meeting of the full Committee, that is to say questions of labour legislation and so on. I think in that connection the Lord Chancellor said—and this is to some extent a reply to His Highness of Bikaner—that the list of Federal subjects is not yet final. He said that in the course of discussion it might be necessary, when going through these so-called Central subjects, to modify that list. I think he also said that when that was being done those gentlemen who sent

a separate letter to him would be allowed to come here and have their say

I entirely agree with my friend Mr. Mudaliyar that the provisions of the Canadian law are not a precedent which we can follow in this case, but I am not sure, as we are exploring what is more or less new ground, whether it is not possible to provide for what on one occasion Sir Tej Bahadur Sapru termed Class B legislation. I think His Highness of Bikaner agreed at that stage to Sir Tej Bahadur Sapru's proposition with regard to Class B legislation, and that is more or less on the lines of what Sir Muhammad Shafi has proposed, the fundamental proposition being that the Central Legislature will be authorised to pass certain enactments of a uniform character, which will not be applicable to individual States until they are re-enacted by the Legislatures of those individual States. That will preserve Their Highnesses' rights of sovereignty, and I believe in the course of that discussion His Highness of Bikaner was willing to accept the proposal which was then, I think, put forward by Sir Tej Bahadur Sapru.

If it is possible to pursue that idea, then it may still be possible to secure uniformity in regard to certain of these items, which Sir Sultan Ahmed and Sir Muhammad Shafi have agreed is desirable Of course, if Their Highnesses will not agree even to that proposal we are left simply with the question of British India—whether there should be uniform legislation with regard to British India, and by what process that legislation should be made applicable to the Provinces of British India, whether automatically or after further discussion and acceptance by the Provincial Legislatures

Here comes in all that group of subjects referred to in item 41, "Legislation with regard to any Provincial subject". When we refer to the list of Provincial subjects, we find labour items and industrial matters are included in item 26 of list C. I for one—as I think I said the other day—am not in agreement with Mr Joshi's ideas on the subject to the extent to which he wanted to press them, but I think there may be some advantages in having a provision in the new constitution for a uniform legislation which would be applied by the Provinces in their territories when accepted by the Provincial Councils. That might also be the case in regard to the States, and it would not in any way affect the sovereign rights of the rulers of these States.

I quite see Mr. Mudaliyar's point, that this may mean that the Central or Federal body will be dealing with a matter which thereafter will have to be discussed all over again in the Provincial Councils, and, that being so, I see considerable force in the argument he put forward, when he asked what was the use of providing for this double procedure While I see that, however, I think there are some advantages in attempting to have a uniform procedure, and these may possibly outweigh the arguments advanced by Mr. Mudaliyar

So far as I am concerned, in regard to matters other than 16 and 30 (that is to say, items coming under 41), I should prefer a procedure which I think I indicated in this sub-Committee some time ago, of trying to secure co-ordination at the Centre where these matters should be discussed, it being left to the Ministers of the Provinces of British India and the Ministers of the Indian States to try to implement the agreement thus arrived at by undertaking legislation in the various units of the Federation; but there may be something to be said for the other view, more particularly as Sir Tej Bahadur Sapru at one stage made the suggestion. I am simply placing before the sub-Committee these various alternative proposals.

H.H. The Maharaja of Bikaner: May I explain one point in connection with this? I certainly agreed, so far as the list we had drawn up was concerned, that we should have to have two classes of subjects, A and B, and I asked for help from the Lord Chancellor and from our friends on the other side in drawing up some rules by which in class B we could legislate on the lines of the Federal legislature, and so on.

Sir B. N. Mitra: I should like to say this, in view of what His Highness has just said. The list of Federal subjects as it now stands does not contain any subject which might be classed as " B ". Those are subjects in regard to which, in the small committee which drew up the list, Their Highnesses were willing to accept legislation by the Federal Legislature; and therefore, after discussion in the full sub-Committee, His Highness did not press his point.

H.H. The Maharaja of Bikaner: I want to make this clear. I did not want to waste the time of the sub-Committee by going through each matter at that stage, as to whether all the subjects included in the Federal list provisionally were Class A, or whether any of them were class B. They may be all Class A, but I have not gone into that. I do not think that is a matter which will present much difficulty. What it is sought to do now, however, is to add to the list of Federal subjects. I have pointed out the special position of the States, that we want to have as limited a list as possible. In the list we got last night are the subjects which are obviously intended for British India, whether the Centre or the Provinces, and therefore the discussion which is now proceeding concerns British India. While we may be willing to consider any particular subject, it is impossible for the States to accept legislation being handed over to the Federal Legislature in this way.

Sir C. P. Ramaswami Aiyar: I should like to say a word on this matter. In view of the observations made by His Highness of Bikaner at a previous sitting, I have been giving my most anxious consideration to this question of normative legislation or legislation on the lines of Section 94 of the British North America Act, referred to by Sir Muhammad Safi. The more I consider the question, the more am I impressed by the difficulties of any

system by which Federal legislation is not to have definite effect *ipso facto throughout the area of the Federation.* The other idea, attractive though it seems at first, seems to present greater and greater difficulties as you begin to explore it.

Let me illustrate the point by referring to States which I know fairly well. Take the State of Travancore in the South of India, or the State of Mysore The State of Travancore has a fully equipped Legislative Council, with powers of budgetary discussions approximating to those of many Provinces. I know of instances where that Legislative Council, with its remarkably extensive powers, has openly objected to adopting British India legislation or British India policy. I know that from my own experience In such a case, assuming the Travancore Legislative Council comes to the conclusion that Federal Legislation does not suit its conditions, it will not hesitate to express its opinions; and I know it is accustomed to express its opinions fairly freely. To suggest that normative Federal legislation should be enacted, but that one State which is a unit of the Federation should be able to say " I do not approve of this, and it shall not apply to me ", would make it very difficult for the Federal law to be adequately operative. I am only choosing one instance I can well conceive of the Federal legislation being rendered practically nugatory if we had the idea that each element of the Federation is at liberty to accept or not to accept an item of legislation.

Chairman: I think the sub-Committee would give us a good deal of guidance if at the same time that they are discussing the subjects raised they would discuss the question which was mainly in our minds when this item (*b*) was put down—that is the question whether these twelve items should be left Central or whether any of them should be provincialised That is the question we should like an answer upon during the course of the discussion

Sir Tej Bahadur Sapru: I was just going to point out what you have pointed out, namely, that in the list of the subjects which is before us to-day the real question is as to whether we shall make these subjects provincialised or centralised, and that has reference only to British India In the list as prepared there is no reference at all to the Indian States Personally speaking, I do not think, having regard to the lines on which we have hitherto proceeded, that so far as these subjects are concerned the Indian States should also come in If they do come in voluntarily I shall welcome it. It is a question of policy which can only be decided by Their Highnesses, or it is a matter of agreement, but so far as the question of Civil Law is concerned, I am afraid there is a great deal of misapprehension about it, because so far as Civil Law is concerned, it has a very definite meaning in India. It does not mean exactly the same thing as that expression would mean in England There is a good deal of your Common Law which we have borrowed and on which some of our statutes are framed. There is a good deal of your Equity which we have borrowed In fact most of our Civil Law is based on

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English Common Law and on English Equity. There are no doubt wide departures in certain respects, but those departures have been made with reference to the peculiar circumstances of India. It would be a great mistake to suppose that Civil Law means only English Common Law and Equity. There is a good deal of law which we, in legal parlance, in India would call Civil Law which you, strictly speaking, in England would not call Civil Law. There is the law relating to property—and I could give other instances. You will find that even in India what happens is that, in regard to certain broad questions of policy, there is uniformity everywhere. There are certain Acts which apply everywhere—for instance, the Registration Act, or the Limitation Act, and things of that kind; but taking the question of property, there are wide divergencies in India in regard to the law of property between one Province and another Province. The most important Act which the Indian Legislature has passed relating to property is the Transfer of Property Act, which applies practically to all the Provinces but which does not apply to some of the important Provinces like the Punjab. Therefore, so far as Civil Law is concerned, when we refer to uniformity in respect of Civil Law we generally mean the laws relating to procedure—for instance, the Civil Procedure Code, or the Law of Limitation—laws which in England would be called laws of an objective character. Take again the question of Hindu law or Muhammadan law which, in ordinary parlance, we would call Civil Law in India. So far as the Hindu law is concerned, there are wide divergencies between one Province and another.

Bombay is quite different from the United Provinces. The United Provinces is quite different from Madras, although both of them are governed by the Mitakshara law in certain vital respects; and I know it for a fact that, so far as Indian States are concerned, practically no two Indian States adopt the same principle of Hindu law in regard to certain vital matters. Most of them are governed by their customary law. Therefore, so far as Civil Law is concerned, it is far too general an expression to give an idea as to what it is exactly we mean by uniformity in British India and in Indian States.

My friend Sir Bhupendra Mitra referred to Labour Law. There is a good deal of Labour Law in India which is really Civil Law. Take for instance the Workmen's Compensation Act. It is essentially based on the old well-known principle of torts, part of the Common Law. Lord Reading will bear me out when I say that during his time there was a good deal of legislation undertaken with regard to industry and labour, for which I had a certain amount of responsibility. That legislation might generally be called Civil Law, but strictly speaking, it is an absolutely different branch. If questions relating to labour arise then I think, having regard to certain international obligations which have been cast upon India by reason of its association with the League of Nations, it will be time for us to press on Their High-

nesses the adoption of a community principle so far as Labour legislation is concerned. I should certainly press it on them in view of these international obligations, but it does not seem to me that we need necessarily confuse Civil Law with Labour Law. A wide distinction has to be made.

My friend Sir Bhupendra Mitra reminded me of the classification to which I referred on a previous occasion—(*a*) and (*b*). I certainly had not the Civil Law and the Criminal Law in view when I referred to class (*a*) and class (*b*) As I was responsible for that expression, I think it necessary to explain that I would not have Civil Law and Criminal Law in class (*b*). If Their Highnesses could be persuaded to agree, I should certainly have Civil Law and Criminal Law in class (*a*) rather than in class (*b*) That is a matter of policy or agreement, and that is for them to decide.

Mr Gavin Jones With regard to these subjects which it is proposed to call Central, I very much sympathise with what Sir Sultan Ahmed and Sir Muhammad Shafi have said As far as our community is concerned, we consider it of vital importance that Civil Law should be centralised I agree with Sir Tej Sapru that it would be far better if it could be made a Federal subject, but if the Indian States will not come in, then we shall have to make a different arrangement Anyhow, it should be centralised

There are some subjects in this list which I think might be removed For instance, I think subject 34 "Ecclesiastical Administration, including European Cemeteries," should be made a Crown subject. It is only the British who are interested in it It is a very small subject. Why should we enlarge this list? We want to reduce it as much as possible "Archæology" and "Zoological survey" we have passed over, but in my opinion these should be made Federal subjects They are not very important, but it certainly would be advantageous that they be uniform throughout the whole country.

As regards 41 and 42, on which Sir Sultan Ahmed and Sir Muhammad Shafi place great importance, I would like to reserve my opinion on that, because there are certain things which must be centralised. I think clauses 41, 46 and 47 are far too vague I think 47 should be excluded altogether, and that 41 and 46 should be definitely defined, because such questions as Ports must be centralised. Industrial matters should be centralised, and Weights and Measures and Inland Waterways

On the question of the administration of justice, I see that High Courts are included. There was a suggestion in the Simon Commission Report that High Courts should be made a Federal subject This is a little too vague We ought to have everything quite definite

Sir Samuel Hoare I hope that we do not make it too much a question of principle about this discussion. It seems to me that, having started it upon rather general lines—I am not blaming any-

body for having so started it—we are apt to make it rather a Second Reading debate. I should have thought it would have been better not to have had this general discussion, but to have taken each item one after another and to have seen whether we could not have come to a decision upon each of them. With this in mind, quite obviously with a Federation of this kind—a quite unique kind of Federation—there are going to be all sorts of anomalies. It is the easiest thing in the world to go through a list of this kind and to point to every kind of anomaly in every direction. I venture to suggest that if we do that we shall not get on at all, and we shall destroy the work we have already done, and we shall put back the advance which we made last week irrevocably. I therefore suggest that we should go through this list item by item and that we should not pay too much attention to the anomalies. If at this stage the Princes, for one reason or another, wish to take a particular line, of course they can take it. It is the first chapter in a very big new book, and we must accept the fact that, compared with other Federations, there will be inherent in this Federation a great many anomalies that we do not see elsewhere. Having said that I suggest we take No. 16, No. 19, and so on.

Sir Mirza Ismail: The question is whether this particular subject should be a Central subject or a Provincial subject, and not so much making it a Federal subject, because we have already disposed of the Federal subjects, and have included as many subjects as possible in the Federal list.

Sir Akbar Hydari: As there has been a certain amount of general discussion, I should like to make it clear (because I represent one of the States) that in the first place I adhere to the position which I took up in the former meetings, namely, that with regard to Federal subjects the Federal legislation of the Federal body will have to be final. But with regard to the legislation under these items which are now being placed before us, I think, so far as my State and other States are concerned, we shall be prepared to consider favourably a provision like that which Sir Muhammad Shafi has pointed out in the Canadian Act which, whilst allowing the Federal Legislature to pass any law, leaves the States discretion to pass it, accept it or amend it in the way they think best in the peculiar circumstances of the State. I say this because I am anxious that, as far as possible, you should exhaust all the subjects between Federal and Provincial. We do not like that there should be a third residue of Central subjects, because then it will entirely alter, so far as I am concerned, my attitude with regard to those provisions which have been made in paragraph 12 of the Report.

Chairman: I think the wishes of the Committee are clear. They wish to proceed along the line of Sir Samuel Hoare's suggestion. May I explain to the Committee what we now wish to do. We are not now discussing the States at all. We are discussing British India, and what we wish to do is to decide in the case of each of these subjects whether it shall be made a Provincial subject

or whether, as at present, so far as British India is concerned, it shall be left a function of the Central Government.

Sir Muhammad Shafi: With all deference, it does not prevent me during the course of the discussion from placing my view before the Committee that a particular subject should be put in the Federal list. If Their Highnesses do not agree with that proposal, that is a different matter, but supposing I hold the view that a certain subject which is being discussed ought to be in the Federal list, surely I ought not to be prevented from placing my view before the sub-Committee.

Chairman: No, I see your point. Can we now proceed, I hope fairly rapidly, through these subjects. The first is "16 —Civil Law."

Civil Law and Procedure.

Sir Sultan Ahmed. I find myself in considerable difficulty about this. It says "Civil Law including laws regarding status, property, civil rights and liabilities and civil procedure." In the Provincial Legislature even now we can pass Civil Law which may affect status, which may affect property, which may affect civil rights and liabilities, and also to a certain extent civil procedure. Will it mean that if this is a Central subject in the form in which it has been put that the powers of the Provincial Legislature will disappear? Or does it mean simply this—Civil law including laws regarding status, property, civil rights and liabilities and civil procedure which is not dealt with by the Provincial Legislature, or which may not be dealt with by the Provincial Legislature, or which applies to the whole of India? What will be the meaning? In the form in which it is put now, it may mean anything

Sir Muhammad Shafi: May I give the explanation which my friend Sir Sultan Ahmed requires. These Devolution Rules were framed at a time when, from a Constitutional point of view, the Central Government had every right to deal with every class of subject, be it Central or Provincial, the Government being a uni- [illegible] the [illegible] the [illegible] ow [illegible] of [illegible] subjects or Federal subjects, as you like, in the state of things which will come into existence hereafter, when autonomy has been granted to the Provinces and when the theory of concurrent jurisdiction which prevailed in the past can no longer be applicable to the new state of things—this Federal Government having authority to deal with Federal subjects, and the Provincial Governments being autonomous in so far as their own powers are concerned. Therefore this language will have to be altered in order to make it applicable to the new conditions that will come into existence after the grant of Provincial autonomy. So, in so far as for the purposes of uniformity it may be necessary to enact a provision of this kind, I agree that we ought to do so; but the

all-embracing character of the phraseology adopted in Clause 16 can no longer be applicable to the new condition of affairs that will come into existence under the new Act.

Mr. Jayakar: I think Clause 16 should stand as it is at present. It has been in existence for a number of years and its exact meaning is understood in India. It is perfectly clear, as Sir Muhammad pointed out, that special Legislation is passed in certain Provinces so as to affect Status and property. But that is in respect of matters which are peculiar to and affect the Provinces only; the clause on the other hand is in respect of matters which affect the whole of British India. If we once begin to interfere with expressions like "Civil Law" and other terms which have been so well understood in India for many years, we enter upon a task which is exceedingly difficult. These words have stood in our Statutes for a number of years; they are well understood and there is no conflict. The clause as worded must refer to matters affecting the whole of India. The matters which relate to Provinces are of special importance in the Provinces. Take, for instance, property rights. As Sir Tej pointed out, there are certain special laws which certain Provinces have with regard to property. With regard to such property rights the Provinces may have the right to pass any Legislation so far as it refers to anomalies which prevail in a particular Province; but certainly with regard to matters which are common to the whole of India. The power to legislate must remain in the Centre. The law with regard to registration, stamps, and Civil procedure must remain in the Centre.

Lord Reading: Laws with regard to commerce, bills of exchange and so on.

Mr. Jayakar: Yes, the laws relating to commerce, bills of exchange and so on, must remain at the Centre, unless under the cloak of sovereignty in the Provinces we desire to bring about a state of things in which each Province will have its own commercial and bankruptcy law, so that one Province will regard as an act of bankruptcy what another Province will regard as being perfectly meritorious. In that way we will be introducing most dangerous conflicts between the laws of one Province and another. If that is the sort of sovereignty which is intended for the Provinces, then speaking for myself, I shall very strongly oppose it. There are certain things in regard to which India to-day has common notions, such as marital rights, commercial propriety, etc. Are we going to destroy the whole of that fabric? If that is the idea, then, speaking for myself, I shall certainly raise a protest against this sort of destruction in the name of Provincial sovereignty. I submit Clause 16 must remain; everybody understands what it means and I submit that any tinkering with it in the name of the sovereignty of the Provinces will be a most dangerous experiment.

Sir C. P. Ramaswami Aiyar: If Devolution Rule 3 is looked into, the whole problem will seem to be really easy. Devolution

Rule 3 says this. "Any matter which is included in the list of Provincial subjects shall, to the extent of such inclusion, be excluded from a Central subject." Therefore the inclusion in the Central subject merely means that it is not excluded from the purview and the ambit of Central Legislation and Central authority If that be clearly borne in mind, further discussion becomes unnecessary, because, what does the inclusion of Civil law, item 16 in Schedule 1, mean? It means that in regard to Civil law, including laws regarding Status, etc., the Central Legislature has the right to legislate, and it is only in regard to Provincial subjects that the Central Legislature is deprived of the right to interfere and legislate.

Sir Sultan Ahmed · May I say one word with regard to the observation of the Marquess of Reading All those matters are Federal matters for purposes of legislation, commerce, currency, railways All those have been included in the first list we have prepared.

Lord Reading · That does not affect the question of the law

Sir Sultan Ahmed Policy and Legislation, if you will kindly turn to the first list of Federal subjects

Lord Reading Yes, I know the subject is there but we are dealing with the law.

Sir Sultan Ahmed Yes, for the purposes of policy and legislation, they will be dealt with by the Federal Legislature I am not objecting to that; I am in agreement with that These are subjects which are not Federal subjects, but I suggest they should be dealt with by the federal body That has been over-ruled I have no objection if they are dealt with in the same way as the other subjects Perhaps I am not quite clear

Chairman: Now I should like to come to a conclusion on this item I may say that my impression is that the general view of the Committee is that so far as British India is concerned this particular heading should be left as at present a function of the Central Government.

Mr. Jinnah No, Sir, I do not agree with that at all I think there is a great deal of confusion here. Sir Tej Bahadur has made the point very clear. If that point is borne in mind, then these words are certainly far beyond his *intention. I entirely* agree with his point; he said · "What is the meaning of Civil law"? That is just the point, Sir And Sir Muhammad Shafi is perfectly right, it is no use running away with these vague ideas that if you give certain powers to the Provinces there will be a dissolution, chaos, conflict, and so on and so forth. I have not the slightest doubt in my mind, and I hold very strong views, that if you do not make the Provinces really self-governing units, I think your constitution will break down. Each Province has its own varying conditions. The conditions of the Provinces are very different from each other; Bombay is as different from Madras as

cheese is from chalk. Bengal, again, is totally different from Madras and Bombay. Unless you really make the Provinces autonomous and in a position to manage their own internal affairs properly, I venture to say that your constitution will break down. This idea that the Centre should still centralise and have the Central control to my mind is a mistaken idea, and your constitution will break down. I agree with Sir Tej Bahadur Sapru: let us be very careful in using the words that we are using, because, remember, this was intended for the purpose of vesting powers in the Centre in a unitary form of government. Under this clause the Central Government can pass any law it likes; it can even pass laws which will affect the Hindu laws prevailing in different Provinces. It can pass any law, I venture to say, which will be binding on all the Provinces. That is not the intention at any rate so far as I understood from Sir Tej Bahadur Sapru. He does not mean that; what he means—and I agree with him—is that we must have uniformity of laws in certain specific matters such as the procedure law, the adjective law, but not the fundamental law.

Mr. Gavin Jones: Company law?

Mr. Jinnah: Company law, yes, because you have already dealt with that; you have already attained uniformity of Legislation with regard to certain commercial matters; you have made that a Federal subject, and your Federal Legislature will have the power to make laws which may come into operation in all the Provinces and the States. That you have already done. Therefore, I say, Sir, that these words require very careful examination before I can accept them, and I certainly will not accept this under any circumstances if the words are to stand as they are now.

Lord Lothian: Mr. Chairman, may I make a remark or two on this point. It seems to me that there is another aspect of this question which requires consideration. As various speakers have already mentioned, the whole concept upon which the constitution of India has developed hitherto has been a unitary concept; that is to say, the power has been derived from the top and gradually devolved to the Provinces. The most characteristic aspect of this is the rule which exists at present that the Central Government can itself at any time determine where the limit between Provincial and Federal powers resides. Now if you are going to have anything like a Federal constitution, if you are going to have effective responsible government in the Provinces, the situation is fundamentally changed. It is entirely different, for this reason, that your authority in the Province is derived from the electorate of that Province, and it is absolutely impossible for any Central Government to give orders to any Provincial Government. If you look at every Provincial constitution which has ever existed in the world, the first thing you have got to do is to draw an absolutely clear line of division between those functions and those powers which belong to the Central Government, and those functions and those powers which reside in the Provincial or State Government. You have to give to each Government the appropriate administra-

tive organs to give effect to its own powers. The corollary to that has always been this. There is first of all a grave dispute as to the terms of the legislation and one has to get agreement between the States and the Central Government. Thereafter it becomes one of the main functions of the Supreme Court to interpret that law and to determine the exact point at which Provincial powers end and Central powers begin. You will find in the United States, in Canada, in Australia and in the Privy Council, that one of the most important aspects of their functions is to determine those questions. A great many of these questions which are under discussion can only be determined in the light of the fact that you cannot give orders in the Centre to a Provincial Government which is responsible to a local Parliament; you cannot do it; it is the very essence of Federation that it is an impossible thing for a Government which is responsible, say, to an all-India Legislation, to give orders to a Provincial Government which is responsible to a Provincial Legislature

Therefore, I think one of the matters you will have to consider here, *which raises in a very acute form the question of draftsmanship*, is the limitation of powers between the Centre and the Provinces. The question as to on which side of that line powers lie will be interpreted in fact by the Supreme Court and not by a Central government.

Mr. Jinnah: May I draw the attention of the Committee to Section 45 of the Government of India Act. The Devolution Rules really are made under that You see that the local government cannot legislate in many matters without the previous sanction of the Governor-General Clause No 16 that we are discussing now is out of place in the scheme that we are considering as it stands.

Sir Tej Bahadur Sapru It certainly seems to me that the language of Clause 16 here requires very careful consideration, and, as Lord Lothian has said, really it is for the draftsmen. I do not think that there is in substance really such a great conflict between two sets of opinion as seems to be the case. Now, as Mr. Jinnah has made reference to what I said at an earlier stage of the proceedings this morning, I just want in a few sentences to explain my view. There are certain laws of an adjective character, laws relating to procedure, which we cannot afford to split up into so many laws Province by Province Take, for instance, the law of Civil Procedure in India; I think it would be disastrous if the United Provinces to which I belong had one kind of procedure and a Province like the Punjab had another kind of procedure. Decrees passed by a Court in one Province must be effective in another Province There must be uniformity of law with regard to decrees Similarly, I think it would be disastrous if you allowed the Provinces to have separate laws of evidence With regard to the law relating to the transfer of property, you have the fact that within a large number of Provinces the same Transfer of Property Act applies, whereas in the Punjab it does not apply. Even in

regard to the law of limitation local legislatures have passed modifying legislation; but, on the other hand, take a case like the law of registration: it would be a great calamity if a document were valid in the Punjab and invalid in the United Provinces. Therefore I would ask you to deal with this subject by carefully classifying the sort of legislation with regard to which you would like to have uniformity, and in regard to that legislation you should give the Central Legislature power. As regards other matters, I see absolutely no reason why the Provinces should be deprived of power to deal with them. May I illustrate that, Sir? Take, for instance, Madras. In Madras certain legislation has been passed from time to time affecting a considerable class of people who would ordinarily be governed by the Hindu law. Take, for instance, the law relating to impartible estates in which big landlords are very much involved. We have no such legislation in our Province. Take again my own Province, which really consists of two Provinces. In the Province of Agra the zamindars are governed by one class of personal law, while in the Province of Oudh all these big talukdars, some of whom are represented here, are governed by an entirely different Act. Therefore, in regard to matters of property, and relating to personal law and things of that kind, you have carefully to go into those questions and analyse them; but I should certainly have uniformity in regard to matters relating to exchange, bills of exchange, commerce, banking; and not only would I have uniformity in British India, but I am going to press it upon Their Highnesses to agree to that. Therefore I say that this Clause 16 will have to be carefully analysed and split up. I am in sympathy with Mr. Jayakar when he says there must be some uniformity of law in regard to certain big questions of procedure; but then I do not want to encroach on the autonomy of the Provinces in regard to matters which are peculiarly within their domain, which can only be determined by the voice of the electorates of those Provinces, to use the phrase of Lord Lothian. Therefore these will have to be carefully analysed in the light of our Statute Book. We have to bear in mind what our Statute Book is. You have got local Acts printed separately in every Province; you have got the Acts of the Governor-General in Council printed separately. It will require a very detailed examintion, and therefore what I would say is that we can only hope to come to some general principle in regard to this matter, leaving the details to be worked out by some expert or by some Committee.

Lord Peel: Mr. Chairman, may I just say one word on this, because I find myself in considerable difficulty in listening to this very interesting discussion; because I think it appears quite clearly that under these general words really a very large number of difficult and controversial subjects lie hidden.

I listened with great care to what Mr. Jinnah said about some of these subjects being already comprised in the list of subjects on which Federal legislation is to take place, and, though I have

given my best attention to the discussion, I am not at all clear as to what the proper division should be in this case between the Central subjects and the Provincial subjects Personally, I should like to have much more information on this before I can express any opinion worth having. If the Chairman is ready to agree to some such suggestion as Sir Tej Bahadur Sapru made, to have the thing examined and redrafted and brought up in a more extended form, I should find it of much assistance

Lord Reading: It is more a matter of considering how the question shall be considered than of the actual drafting, because the drafting can take place only when you have determined what you want to do. The difficulty is not in the words, but in agreeing what you mean, and that involves a considerable examination of the legal aspect of the matter It would appear that the words used go further than what is intended It must be of the utmost importance to have uniformity in such matters as procedure and evidence and other aspects of commercial banking, insuarnce, and so on. Of course, as Sir Sultan Ahmed has pointed out, some of these are already Central subjects, but that shows the importance of having uniformity.

In the case of some you have transferred them and made policy and legislation Federal, but in the case of others that has not been done, and therefore in respect of those others you have as yet no provision for uniformity

The real difficulty is to decide where the dividing line should come, at what precise point or points you come to the conclusion that certain matters should be dealt with by the Provinces and not by the Federal Legislature. In other words, what are to be the powers of the Federal Legislature with regard to these laws, and what powers are to be left to the Provinces? It does not seem possible for us to determine that now; it requires expert and careful examination.

Chairman · I should like, if I may, to make a suggestion to the sub-Committee in regard to that It seems to me the way for the sub-Committee to overcome that difficulty is for it to appoint a small committee of its own to meet with the draftsmen and draw up some form of words which would deal with this subject. I should like the members of this sub-Committee to give me their views on that.

Lord Reading · There is great difficulty in that, I suggest, because that really does mean that this small expert committee would have to deal with the details; yet it is only when you know what you mean that you can find language to fit it. The difficulty here is to know exactly what is the precise point I suggest you should find some provisional language to cover this, leaving it to the expert committee which will have to consider the matter to deal with what is to be done in the future and the precise words to be used

Chairman: That is no doubt correct, but I feel it is difficult for us round this table to determine even the provisional language; but if we could get a few of our members to meet the draftsmen we might be able to draw up something (*cries of assent*).

Mr. Jinnah: I suggest this item might stand over for the moment.

Chairman: Do you mean stand over altogether?

Mr. Jinnah: For the moment.

Mr. Sastri: That would not supersede the suggestion which has been made by the Chairman?

Mr. Jinnah: I suggest it should stand over; let us think it over a little more anod turn it over in our minds, and then it may not be necessary to appoint such a special committee.

Chairman: I should like to know the views of the sub-Committee on this matter.

Mr. Sastri: You think it may not be necessary even to refer this matter to a small committee?

Sir Tej Bahadur Sapru: I suggest we adopt the Chairman's proposal and have a small committee to discuss this matter with the experts, the draftsmen.

Mr. Jinnah: All right; I have no objection. But 16 and 30 must go together.

Sir Muhammad Shafi: Yes, 16 and 30 must go together.

Chairman: If we cover Criminal Law as well, that will mean a very important subject dealt with. Would you allow me to suggest names for such a committee? I would suggest: Mr. Jinnah, Sir Muhammad Shafi, Sir Tej Bahadur Sapru, and Sir C. P. Ramaswami Aiyar.

Sir Tej Bahadur Sapru: I would suggest the addition of Mr. Jayakar.

The Chairman: Do you agree to the appointment of that committee, to confer with the draftsmen?

Sir Tej Bahadur Sapru: In that connection, if we are going to meet your experts, may I suggest we should have the benefit of the advice of Sir Edward Chamier, as an outside adviser to assist us?

Sir Muhammad Shafi: I agree that would be very useful.

Sir Samuel Hoare: What is exactly the reference to this committee?

Chairman: To draw up a broad statement, not to go into details.

Sir Samuel Hoare: On the lines suggested by Lord Reading? It is not going minutely into the merits of the case, but will be a broad statement which will satisfy each side for the moment; is that so?

Mr. Jinnah: I understand the reference would be this, that we have got to find some formula to secure in certain specific matters uniformity of legislation throughout British India.

Chairman. Yes, that is it.

Sir Muhammad Shafi That is the object.

Mr. Jinnah: That is the object, yes. In place of 16 and 30 we want something which will secure what we have in view.

Chairman · I suggest we appoint Mr. Jinnah, Sir Muhammad Shafi, Sir Tej Bahadur Sapru, Sir C P Ramaswami Aiyar, and Mr. Jayakar, and they will meet our draftsmen and Sir Edward Chamier.

NOTE—*The Report of this Legal sub-Committee is reproduced as Appendix to the Second Report of the Federal Structure sub-Committee, see page 677.*

(*The sub-Committee adjourned at 12-55 p.m*)

PROCEEDINGS OF THE TENTH MEETING OF SUB-COMMITTEE NO. 1 (FEDERAL STRUCTURE) HELD ON FRIDAY, 19TH DECEMBER, 1930, AT 3 P M.

Chairman (Mr. Lees Smith) You will recollect the point that we had reached. I had put before you head (*b*) in the paper that has been sent out. That head constitutes, you will recollect, the Central subjects which we have not yet declared to be Federal. We were determining how they should be dealt with, how far some of them would be in future partly Provincial and partly Central. I think we have overcome the main difficulty. The main difficulty was presented by Civil Law and Criminal Law, and I think we may say we have arrived at a very sensible method of dealing with those two subjects.

Now I would ask you to go on to the remaining subjects which, I imagine, are not of the same importance. If we went through them item by item we might obtain a provisional statement of where each of them would stand.

It was suggested that three of the headings which were numbered 41, 46 and 47 need not necessarily be discussed or determined upon at this stage, that if we could come to a decision about the rest those could be left over for the time being. Would it now, therefore, suit the Committee if I went through it item by item, starting with item No. 19 and asking whether you would suggest that that should be Central or otherwise, and so proceed?

NOTE—*The detailed discussion which followed is not reproduced in full, but only those portions which touched upon questions of principle.*

Railways.

Chairman: Now we take 5 (*c*), "Railways (including railways to be constructed or acquired in future)."

Sir B. N. Mitra: We are now concerned here with the state railways in British India. I am pretty sure that nobody here will suggest that these should be provincialised. They should continue to remain Central, except to the extent that they are already provincial. I think that applies to the Jorhat Railway and one local line in Madras which may now perhaps have become Central. Except to the extent that they are already provincial they should be Central.

Chairman: Is that agreed upon generally?

Nawab Sir Akbar Hydari: I do not say that I disagree, but I should like to know whether it is a fact or not that some years ago there was a discussion whether the Government of India Railways should not be provincialised.

Sir B. N. Mitra: I cannot talk of past history.

Nawab Sir Akbar Hydari: It is not so irrelevant as it might appear, because if that question was a living question then and if it was turned down simply on account of the character of the Government of India then, I should like to know whether it is not possible really to explore this and to make over these railways on a provincial basis so as not to have a *tertium quid* in the form of a Central (as distinguished from Federal) administration.

Sir B. N. Mitra: My answer is based on practical grounds. Take the East Indian Railway which runs through three Provinces. I should rather maintain the *status quo*, the Central administration, and if later on it is found necessary to make a change in policy that might be considered on its own merits.

Chairman: Well, then, administration to be Central.

Mr. Jinnah: Supposing any particular Province has its own small railway. Some Provinces have small railways which are entirely within their own territory. We have a small railway in Bombay.

Sir B. N. Mitra: Not a British Indian State Railway.

Mr. Jinnah: You have such definite views on the subject. Supposing in future, just as the States may develop railway lines, so similarly, if a Province wishes to develop its own railway line, what is to happen to that?

Sir B. N. Mitra: According to the formula proposed for adoption, all that will happen is that the existing British Indian State Railways will be Central.

Mr. Jinnah: Here you are including all railways. What it says is: "Railways (including railways to be constructed or acquired in future)." "Policy and legislation to be federal. Administration to be federal to the extent of powers now exercised by the Railway Board." That will include any railway that you construct anywhere.

Sir B. N. Mitra: That is a federal subject.

Mr. Jinnah: Quite so. That is what I am objecting to.

Chairman: It is pointed out to me that light and feeder railways are already Provincial Would that meet your point?

Mr Jinnah: That is a financial subject no doubt; but here I want to make it clear that it should not apply to any railways within the territories of Provinces in future

Sir B. N. Mitra We have already discussed the point in connection with the entry under Federal That applies to lines to be constructed in the future.

Mr. Jinnah Quite so It may apply to any line which may be constructed anywhere

Sir B N. Mitra That was admitted It was discussed and agreed to.

Mr Jinnah My point is a very simple one Supposing the railway line is constructed by the Provincial Government out of their own funds or by some enterprising company that comes forward, will that also be a Federal subject?

Sir B N. Mitra To the extent indicated in the Notes That point was discussed in connection with railways to be constructed in Indian States The policy and legislation in regard to that particular new line will have to conform itself to the policy and legislation of the Federal Government

Mr. Jinnah I am talking of administration

Sir B N. Mitra: Administration is to be Federal to the extent of powers now exercised by the Railway Board Those powers refer to the regulation of rates, inspections and things of that sort We went into that in great detail in the small sub-Committee where we drew up the List of Federal Subjects, and Sir Akbar Hydari was satisfied with that formula, because it is limited "to the extent of powers now exercised by the Railway Board" It is the broader aspect of administration, namely, rates and fares, inspection, construction, standards, gauge, etc.

Mr. Jinnah You have not appreciated my point. I am not talking of rates and fares and things of that kind Supposing a railway line is constructed within the territories of a Province and the Government are willing to have that line Who will have the controlling authority as far as that particular line is concerned—not merely its rates and fares but its entire administration, its service, its finance, everything? Who will be responsible for it? That is my question.

Sir B N Mitra: In regard to the first part, it is to the extent mentioned in this Note that it will be Federal With that part there is no difficulty.

Mr. Jinnah Do you not see it says "to the extent of powers now exercised by the Railway Board"? The extent is that the Railway Board will be exercising entire control

Sir B N. Mitra: No

Mr. Jinnah: Who is going to be responsible for the finance here?

Sir B. N. Mitra: That is what I am coming to.

Mr. Jinnah: Is finance included in the administration?

Sir B. N. Mitra: No. In regard to the finance of the Federal Railways the Federal Government is not responsible. That was clearly understood at the discussion with Their Highnesses. That is the reason we are now left with the State Railways in British India. They will become a Central subject, and my proposal is intended to follow the line of least resistance, that is that the State Railways now in British India should continue to be Central subjects. If a Province wants to build a new Railway within its territories, whether that would be a practical proposition or not in the present position of finance in the Provinces is more than I can say, but if that matter becomes a practical proposition it can be settled at the time when it arises.

Sardar Ujjal Singh: Is not Mr. Jinnah's point met already by the list of Provincial Subjects 6 (*d*) in the Devolution rules, which says: "light and feeder railways and extra-municipal tramways in so far as provision for their construction and management is made by provincial legislation; subject to legislation by the Indian Legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line"? Those railway lines which do not connect with any main line are already provincialised. They may be constructed by the Provinces under provincial legislation.

Chairman: Does that meet your point, Mr. Jinnah?

Lord Peel: May I put Mr. Jinnah's point in a slightly different form. If there are these railways constructed by the Province, what, if any, control will the Province have over these lines? We have been told what control will be exercised over them by the Railway Board, but is there any minimum left? That, I think, is Mr. Jinnah's point.

Sir B. N. Mitra: There is a considerable amount left. There is the day to day administration of the line, what we may call the management.

Mr. Jinnah: What do you mean by management?

Sir B. N. Mitra: There is the employment of the staff.

Chairman: I would like to know whether this item 6 (*d*) meets Mr. Jinnah's point.

Mr. Jinnah: I do not think it will cover my point. Take employment of staff and service, for instance. A railway may be constructed by the local Government through a company or its own funds, if they have any, and they are the proprietors of that Railway within their territory; and yet the railway service would be controlled by the Federal Government. That is exactly what will happen.

Sir C. P. Ramaswami Aiyar. With regard to Mr. Jinnah's point it must be remembered there has been a definite change of policy with reference to these railways within Provinces since the Report of the Acworth Committee. In pursuance of that change of policy one of the biggest local lines in India, the Tanjore District Railway, which was constructed wholly at the instance of the Tanjore District Board and was its property, has been arranged to be bought out by the State because that Railway touched the main line from the north of India to the south at many points, and there were questions that arose both of short-circuiting and difficulties about tariffs and rates. So it has been arranged, notwithstanding the objection of the District Board Railway, that it should be purchased. The policy so far as British India is concerned has been that, excepting light and feeder railways which do not touch the main line of railway traffic, the railway ought to be a State controlled institution subject to Central supervision and also to Central administration. That has been the policy which has been evolved since the Report of the Acworth Committee So far as many of us are concerned, we stand by that policy, and we consider that that policy would solve many of the difficulties which have arisen, say in Canada, or the United States, with reference to the separate systems of railway administration not always congruous in their policy and outlook From that point of view I submit that if at any time the policy of a Province changes the Province should be allowed to run its own railway system, and that except where a trunk railway line is concerned you might devolve. This is one of those few cases where devolution from Central Authority and the handing over of the particular administration of the railway to the Province might be attempted

Mr. Jayakar. If we had a few instances of the powers now exercised by the Railway Board, I think it would help us. We have at present just a vague impression If you could give us exactly the contents of that perhaps it would be easier for us to find out whether we should give this power to the Province or make it Central.

Sir B. N. Mitra It would be impossible to give a category of the powers, but I have mentioned the more important powers contemplated in this administration which is to be Federal to the extent of powers now exercised by the Railway Board Those powers are: fixing of maximum and minimum rates, inspections, laying down of standards, determination of the gauge on which the line should be constructed The main items which are not there are: terms of employment of staff, and management, *i.e.*, the day to day administration. There is firstly, what pay should be given to the staff, and secondly, how are they to be recruited?

Sir Akbar Hydari: May I read out the list of the powers? Practically they are the same One is to sanction new construction; another is standards of construction, the third is regular inspection to ensure safety of passengers, the fourth is standardisation of material: the fifth is maxima and minima rates, and the

sixth is with regard to annual conferences of Managers and Heads of Departments.

Mr. Jinnah: I do not want to take up your time. I reserve my opinion on this point.

Mr. Gavin Jones: I quite agree with Mr. Jinnah that the Provinces should have equal rights to develop their Railways within their Provinces as the Indian States have. I quite agree with Sir Bhupendra Nath Mitra that certain administration has got to be centralised, and that has been specified by Sir Akbar.

Sir B. N. Mitra: The form of words suggested ought to meet Mr. Jinnah's point.

Chairman: What was the form of words?

Sir B. N. Mitra: My form of words was that State Railways in British India on the date of the introduction of the new constitution should be Central.

Chairman: Leaving future railways?

Sir B. N. Mitra: That is right. And, similarly, any railways purchased or constructed from funds provided by the Central Government.

Chairman: Well, Mr. Jinnah?

Mr. Jinnah: I would like to reserve my opinion on this. Unfortunately we have not got out of the atmosphere of which Sir C. P. Ramaswami Aiyar gave us an instance, which was a typical instance of the Centre trying to keep everything in its hands. Naturally if you are going to run the Government of the unitary form, you cannot run it unless you take as much power in the Centre as you can get. That is exactly the atmosphere in which we are still living. What we are now thinking of is a very different scheme, and unless you are going to allow the Provinces to develop, it seems to me that we might again have the unitary form of Government. That is why I am very anxious. I do not want to take up any more time, but this is a question which requires more careful consideration. I reserve my opinion on this point at the moment.

Chairman: Then we will enter that in the notes.

Mr. Gavin Jones: I reserve mine also.

Port Quarantine.

Chairman: Then the next one as to which there is a qualification is No. 8, "Port Quarantine. Federal so far as international requirements are concerned."

Sir B. N. Mitra: The residue of the existing services should therefore become Central. At the present moment I think we can only deal with these things in a provisional manner. If there are any marine hospitals at the present moment which are Central, they should continue to be Central; but I have reason to believe that there are no marine hospitals at the present day, and therefore

the matter will be solved automatically. If a Provincial Government wants to start a marine hospital, paying the cost of the hospital, I see no reason why there should be any objection. As matters now stand, I think the residue may become Provincial.

Mr. Jinnah. That is the trouble. we shall go on having the residue, and the residue, and so on

Chairman · Central for present hospitals, and the residuum may be Provincial if they are established by the Provinces

Sir B. N. Mitra · There are no central hospitals, I understand, at the present, and if the Provincial Committee agrees that this should become a Provincial subject, then it need not be a Central subject. It means that the Provinces will undertake an additional liability

Mr. Gavin Jones: We want to reduce the Central subjects as much as possible, Sir.

Sir B. N. Mitra · I personally am in favour of reducing them as much as possible, to conduce to simplicity

Mr Jinnah I reserve my opinion on these points, because it seems to me that if we go on at this rate, we shall have nothing but almost practically everything Central, and the Provinces will be glorified municipalities.

Chairman On this it is proposed to leave it to the Joint sub-Committee, and if they decide that it shall be Provincialised, to put this in the list of Provincial subjects.

Lord Reading I do not quite agree with that myself I should have thought that quarantine must be a Central subject. You are dealing with an important matter of regulations which must be issued and which must apply to all

Mr. Jinnah I do not at all object to Port quarantine being Federal as far as international requirements are concerned To that no one could object; that is already Federal

Lord Reading That is only as far as international requirements are concerned; but you may have quarantine which is under no international regulation, but which, nevertheless, is desirable for all India.

Lord Lothian What is the position to-day in the three main ports. Calcutta, Bombay and Madras?

Sir B N Mitra The position with regard to marine hospitals has been coming to a head in recent years, owing to certain recommendations, I believe, of the League of Nations, but no specific action has been taken so far by the Government of India That is the reason why I said that if the Provincial Committee is willing that the Provinces should accept responsibility, I think it would be a good way of getting rid of an extra Central subject.

Chairman · The point that Lord Reading, I think, has raised is that not only are the international interests involved in this, but the interests of India as a whole are involved in a proper system of quarantine—not of any one Province.

Lord Reading: It is not dealing with marine hospitals, it is dealing generally with quarantine: the orders as to Port quarantine which will have to be issued. A particular Province may know nothing about it, may not have had to deal with it, but, nevertheless, it may be necessary to have a Port quarantine.

Lord Lothian: Is not this one of those subjects, similar to others, when you have to make a clear line between Provincial and Central? We want a very expert enquiry. You have the old division which is based on a unitary system. You do not want to hand all these subjects over to one side. In many cases you have to make a new line of division.

Mr. Jinnah: The only proposition that I can put before you as a general proposition is this: that you must have some expert assistance with a view to finding out definitely how you are going to define ultimately what are going to be Provincial subjects and what are going to be Central subjects. The fundamental object that we want to achieve is that the Provinces should be really autonomous Provinces as units of a Federation.

Sir C. P. Ramaswami Aiyar: The question having been put in that form, may I suggest that, after all, it is not so difficult as it might at first appear to be, provided we keep in mind that there are certain subjects and topics which necessarily involve correlation between one Province and another, and co-ordination of administration and effort. In those matters surely there must be some kind of Central activity. How much Central activity there must be will depend upon the discussion of these matters. For instance, with regard to railways running from Peshawar to Cape Comorin, you must have a certain amount of co-ordinated activity and work. With regard to the ports in the east and in the west there must be a certain amount of co-ordinated activity. There are certain subjects which in essence are not Provincial. One does not want to quarrel with Provincial autonomy; I am as much in favour of autonomy as anybody else; but there are certain topics which are inherently not Provincial.

Sir B. N. Mitra: I do not wholly agree with what Sir C. P. Ramaswami has said. I explained my attitude on a previous occasion. There are certain important subjects in regard to which there must be Federal or Central control. The items in regard to which there must be Federal control in certain matters have already been tabulated almost completely I should say. There may be certain other items, like the British Indian State Railways, in regard to which there must be at the present moment Central control; but there may be a number of other items in which Central control is not required but Central co-ordination is required. That would simplify matters for the purpose of smooth working between the Centre or the Federal Centre and the various units. I think that arrangement is already followed in Canada, and perhaps also in Australia, and in the United States. That is, there should be a Central Board consisting of the Minister at the Centre and the

Ministers from the Provinces, who would then chalk out a uniform line of policy. Then they will try to implement their agreement by passing the necessary measures through the relevant Legislatures. It must not be overlooked that, after all, the power of the purse must remain largely in the Provinces. If we try to impose Central control we may manage to provide for a shadow without securing the substance, and in the attempt to provide for a shadow, we may start quarrels among the various units.

Mr. Jinnah: That is right. Sir C. P. Ramaswami Aiyar seems to think that you can only get co-ordination by means of control. I say: No, not by means of control, not by keeping the whip hand at Delhi or Simla, but you can get co-ordination by giving powers to the Provinces, and then adopting machinery which will secure co-ordination, as Sir Bhupendra Nath Mitra says. That is the fundamental difference. Sir C. P. Ramaswami Aiyar has in his mind this, that it must be control of policy, control of legislation, control of administration. If you go on and say, "Well, in this matter entire control, policy, legislation and administration in the Centre; in this matter, Centre again; in this matter, Centre again", well, that is not the way to build up your Federation, and that is not the way to get co-ordination and co-operation.

Sir Muhammad Shafi: May I, in this connection, mention one fact. As all the members of the Committee know, education is a transferred subject in the Provinces under the control of Ministers who are selected by the Governor from among elected members of the Provincial Legislative Council. These ministers are responsible to their legislative Council for the proper discharge of their responsibilities. Now, the Government of India have already devised a machinery for co-ordination of effort in educational matters. What happens is this, as Sir B. N. Mitra knows. I was Education Member when this subject was discussed. Every year a meeting took place at the headquarters of the Government of India, [illegible] a conference of vice-chancellors of universities [illegible] ing of the ministers from the various Provinces, under the chairmanship of the Member for Education in the Government of India, and subjects were discussed at this conference and conclusions arrived at as a result of the exchange of views, [illegible] place at the conference; and thus co-ordination [illegible] brought about throughout India. As my friend Mr. Jinnah pointed out, co-ordination does not necessarily [illegible] subjects which are in their nature Provincial, and [illegible] which Provinces ought to be allowed to have full [illegible] manage their own affairs. Machinery for co-ordination [illegible] devised, adequate for the purpose, without [illegible] control to the Centre. I [illegible] whatever for giving any such power to the Centre [illegible] fore co-ordination ought not to be allowed to [illegible] the giving of control to the Centre. Co-ordination [illegible] in many other ways.

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Sir B. N. Mitra: May I make another suggestion—that this entry, so far as it is at present not actually Central, should not be a subject for the Centre, but that it should be a subject for the Centre so far as it is actually Central now, and that the question of transferring the Central services to Provincial Governments will be taken up later. We have got to start with something, otherwise we shall never be able to come to any conclusions.

Chairman: I may say that what I was rather hoping was this —if I may explain to the Committee—that we should have sufficient discussion here to enable us to send this to the joint sub-Committee which has got to be appointed by agreement with the Provincial sub-Committee. It has got to be appointed and it has got to discuss this class of subject. What I was hoping was this. I have made a note, but I will not read it all. It comes to this broadly speaking. I think we shall find that there are some subjects which are, by general agreement, Central, and that there are some subjects which are, by general agreement, Provincial. There are other subjects which are rather of the type we are discussing now, and I do not want to raise a general discussion, if I may say so, but may I read part of the note on it which, with advice, I had written on the class of subject with which we are now dealing.

> "If examination shows that it is desirable to maintain in British India, besides the two classes over which the Centre and the Provinces are respectively to maintain exclusive jurisdiction, a third category of subjects to fall normally in the provincial sphere, but to be subject to some arrangement for co-ordination of legislative policy, we have then to decide what that arrangement is to be, and what subjects are to be regulated by it. It may be felt that the present arrangement which casts on the Governor General personally, through his previous sanction, the duty of securing this co-ordination will no longer be appropriate. A possible alternative method would be to give the Central Legislature in these matters over-riding powers of legislation—*i.e.*, concurrent power to legislate, with provision (like that in section 109 of the Commonwealth of Australia Act) that when a provincial Act is inconsistent with a Central Act, the latter shall prevail and the former shall to the extent of the inconsistency be invalid." However, this is what I was coming to: "Having decided broadly that there is necessity for this tripartite division, we might remit the lists to a joint sub-committee for examination in the light of it and to suggest a rough classification of subjects for British India into
>
> A. exclusively Central,
>
> B. exclusively Provincial,
>
> C. Primarily Provincial, but Centrally co-ordinated:
>
> and perhaps to suggest appropriate methods to secure the co-ordination required for category C."

This does not exactly cover the discussion, but I suggest that we might now try and get clear as to the list of subjects which are clearly Central, and the list of subjects which are clearly Provincial, and then the subjects of this character, which we would remit, and the method of co-ordination, could be discussed by the joint sub-Committee and brought up here to us for further debate. I think in that way we shall get the advantage of going through this item by item.

Lord Peel: I rather appreciate the point which has recently been made as regards Central subjects and Provincial subjects. We are trying, of course, to move, with some difficulty, to a Federal system. When you are dealing with these subjects which may have been Central already, it is extremely easy to say that the subjects should be Central, that that settles it and that there is no argument about it. That is a very easy way of disposing of it, but should we not make some effort to see that some of these subjects should not be Provincial? That is a more difficult question, and it seems to me that we ought to examine these items with something of that in our minds, otherwise I very much agree with what Mr. Jinnah said, that we simply remain a unitary Government when we are trying to construct something different—a Federal Government. I only say that on the general tendency.

Lord Reading. Of course, the real point is that these things really divide themselves up into several subjects. During the course of this discussion I have noticed that the main difference between what Mr. Jinnah was saying, and what I had in mind, was that I was thinking of the public health of India at the moment, and of some order which might have to be issued by the Central Government, which possesses information which does not come within the word "international", but which may nevertheless be extremely necessary to prevent some pestilence in India What I had in mind—and my attention all the time has been on that—was, of course, marine hospitals Other matters, I quite agree, might be Provincial. The subject has got to be divided up, but the thing you want mainly to keep in mind is this—that your quarantine is for the purpose of preserving the health of all India, and that unless you have that in the powers of the Central Government, much of the information that goes to the Provinces is not the same as goes to the Central Government, you cannot deal with those matters. The Central Government must handle them, and then the Provinces can take their steps as regards hospitals and any other regulations they like, but your order for quarantine ought to come from the Central Government. That is the main point. Except for that, I do not mind this being Provincial.

Lord Peel · I very largely agree with what Lord Reading says, but take the question of quarantine. Quarantine is for the purpose, no doubt, of keeping out disease and so on Well, you have got these enormous, these tremendous Provinces, with 30 or 40 millions of people, and the obligation is surely tremendous, and it is primarily on these Provinces, to keep their health intact. It is

really quite as much to their interest, in the first case; it is more their interest than that of any other Province to see that their own port is kept free from infection and from disease coming in. Of course, probably co-ordination is necessary; but is it not possible that in the first case the primary responsibility should be thrown upon those great ports which, of course, are the centres not only of international trade, but also of those great Provinces themselves? I do not wish to press the point further, but it seems to me that an effort should be made.

Sir B. N. Mitra: One part of the co-ordination work must necessarily be the supply of information to the various Provinces; and if there is a co-ordinating Board for all medical matters, one of its functions should be to supply information of the nature contemplated by Lord Reading, and that brings me back to my point about co-ordination as distinguished from control.

Mr. Jinnah: The point we were considering is this—let us get back to our item—is port quarantine. The item is: "Port quarantine: Federal so far as international requirements are concerned". Then the question arises, what about the rest? Where is it to go? We are told Central. That is what we were discussing. We can meet Lord Reading's point straight away. We are agreed on that; but is there anything left after we have agreed to this? The answer is, Yes. Well, where does it go? It is suggested, Central. Why? That is really the position. Why should it go to the Central?

Diwan Bahadur Ramaswami Mudaliyar: For the simple reason as Lord Reading said, that one Province would not have knowledge of the outbreak of pestilence in another Province, and in coastal trade the Province would be handicapped if it were not supplied with this knowledge.

Mr. Jayakar: The Government of India would have a good deal more information about these matters in their hands than the Provinces would have. The question is, having regard to the experimental stage through which we are passing, and in view of the fact that these topics have so far been Central, whether we should release them without adequate reason; and it seems to me that the all-India Legislature is likely to control them better than Provincial agencies. I agree with Lord Reading that on these matters the information in the possession of the Government of India is infinitely greater than that in the possession of the Provinces.

Mr. Jinnah: You see how little we apply our minds to this matter. Under a unitary form of Government we have No. 3, public health and sanitation and vital statistics—subject to legislation by the Indian Legislature in regard to infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature. That is a Provincial subject, even now. That is in the hands of the Province, it is under the Government of the Province even now. Who is the guardian of the public health to-day?

Chairman: Now, Gentlemen, may I suggest this to the Committee. These subjects will fall into three headings: (a) Those which are Central admittedly, (b) those which are Provincial admittedly, (c) those on which there is not agreement and on which some form of co-ordination between the two is required. That must go to the joint sub-Committee. I would suggest that we try to go fairly quickly through this list and see whether there is any of these subjects on which there is obvious and almost immediate agreement. That may considerably simplify the work of the joint sub-Committee. Otherwise, of course, it would be impossible to submit the list as it is to the joint sub-Committee, but I think it would help them.

Mr. Jinnah: I think it is better to submit it as it is and let us have the advantage of the views of those who are more intimately connected with the Provincial administration, because in the Provincial Constitution Committee we have, I believe, nine or ten gentlemen who are very closely connected with the actual working of the administration.

Chairman. Yes, certainly. Would the Committee like that to be done? We have had a sufficiently general discussion to bring out what are the major principles at issue Would the Committee like this list now to be sent to the joint sub-Committee for report after they have gone completely through it. Is that generally agreed?

H.H. The Maharaja of Bikaner I ask that this sub-Committee you propose setting up will not deal with the matters affecting the States. It is for British India

Chairman: Yes While we are on the question, would you just listen to this form of words that I have drawn out I think it will be important to get this exactly right. "To appoint a sub-Committee to consider in detail the list of subjects circulated"—we will fill in later whether that list included C and D or not—"and to suggest a provisional allocation into three categories: (a) exclusively Central, (b) exclusively Provincial, (c) subjects in which the Centre and Provinces are both interested and which must, therefore, be subject to Central co-ordination, and to make any suggestions they think fit as to the method to be adopted for securing this co-ordination The Committee is authorised to confer with any sub-Committee that may be set up by sub-Committee II., Provincial Constitution." I have endeavoured to make that fairly comprehensive. I do not know whether any of you have any improvements to suggest. Is that agreed?

Sir Muhammad Shafi: May I suggest one slight modification in the wording of (c). I suggest that the word "must" is too strong in view of the nature of the subjects. It would be better to have "ought to be" or some such word.

Chairman: Well, "ought to be" is just as strong as "must". We might use the word "might", and say "which might be subject to Central co-ordination".

Sir Muhammad Shafi: Yes.

Sardar Ujjal Singh: The idea is to appoint a sub-Committee of this Committee to confer with the Provincial Committee.

Chairman: Yes, that is right. I am not quite sure, but I think we might quickly dispose of the remainder, or we may need to have another discussion on Monday. C is a subject with which I know every barrister here is very well acquainted. It is the list of subjects in which in the devolution rules you have always that addendum "subject to rules by the Government of India", and so on. It is very familiar. I have been warned not to tell the lawyers here something which they know well already, but I will if I may read the little note I have had on this although it is A B C to most of you here. A certain number of Provincial subjects or certain aspects of them—head C of the list circulated—are specifically made subject to legislation by the Indian Legislature. This has a double meaning, (*a*) that on these subjects the Central Legislature definitely retained, without any question of previous sanction, the right of concurrent legislation, and (*b*) that if a Province desired, as it could do, to legislate on these subjects, it had to get sanction to its bill beforehand. I believe that the latter is the usual procedure. The object in both cases is, of course, the same—to secure uniformity of treatment of subjects which though primarily Provincial had a general or Central aspect affecting more than one Province. That is the long list of the subjects of which we have 47 here. Of course, this is bound to go eventually to this joint sub-Committee, because the Provincial Committee is just as interested in this matter as we are. I would like to know whether you would like to remit it now to the joint sub-Committee.

Sir Muhammad Shafi: I think so. It would save time.

Chairman: I think so myself.

Sir Akbar Hydari: Sir, would it not be permissible in regard to C and D to decide whether they should not also be Federal, because, remember what we did: we simply took up the list of Central subjects and decided with regard to them as to which should be Federal. You are now in C and D taking up quite another list which was in the Provincial list, and we have had no opportunity of saying whether it should be Federal or Central or what, so I hope you will not rule it out of order, but consider whether they should be Federal or not. As regards B you were perfectly in order when you said that we have already decided as to whether they should be Federal or not, but with regard to C and D, we have had no opportunity of discussion.

Chairman: Then your point would be to discuss whether they are Federal provided the States are willing.

Sir Akbar Hydari: Yes.

Chairman: Provided the States are willing.

Sir Akbar Hydari: Quite so.

Diwan Bahadur Mudaliyar: I agree that this list of subjects has not been considered by this Committee so far, but after the

sub-Committee has divided them into Federal or Central, we shall have to consider them again.

Chairman: Yes, we shall have to discuss them again, if they are Central, will they be Federal or British Indian. That will come back to us, Sir Akbar.

Sir Akbar Hydari. Yes, I think so. We shall have to consider whether they should be made Federal or Central.

Chairman. We have E left, but E, I think, should not have been included in this paper. E raises questions of quite a different character which will come better under heading No. 6 and I think we had better leave it open till then (*Agreed*.)

Then we have to appoint this sub-Committee May I suggest certain names to you, to which you could add certain others. I do not want to be putting the work always on the same members, so I will suggest this list of names: Mr. Sastri, Diwan Bahadur Ramaswami Mudaliyar, Mr. Jinnah, Sir B. N. Mitra, Sir Muhammad Shafi.

Mr. Jinnah. I would suggest Sir Sultan Ahmed, and that you should drop my name.

Chairman: Yes, I can well understand that

Mr. Gavin Jones: May I suggest that we two Minority Communities should be on this also?

Mr. Jayakar Yes, I think it would be well to have the European and Sikh communities represented

Chairman: Yes, if you wish to. I do not know whether it will be necessary to put on one of the British Delegates; as a matter of fact, they are not very anxious to join the sub-Committee. they are so busy with other things that it is difficult to get them to serve; but I do not think that is necessary May I take that list as the list of members we appoint? (*Agreed*.) Thank you very much. I think we have covered a good deal of ground this afternoon

NOTE —The members thus appointed formed, together with members appointed by the sub-Committee on Provincial Constitutions, a joint sub-Committee under the Chairmanship of Lord Zetland The recommendations of this joint sub-Committee are reproduced as Appendix I to the Second Report of the Federal Structure sub-Committee.

(The sub-Committee adjourned at 5-10 p m.)

PROCEEDINGS OF THE ELEVENTH MEETING OF SUB-COMMITTEE NO. I (FEDERAL STRUCTURE) HELD ON MONDAY, 22ND DECEMBER, 1930, AT 11 A.M AND 2-30 P.M.

Composition of Legislature and Methods of Choosing Members.

Chairman (Lord Sankey): Your Highnesses and Gentlemen. The matters which fall for discussion this morning are those which are comprised in number 4 and number 5 of the Heads of Discussion; "the number of members composing the Federal Legislature and, if the Legislature is of more than one Chamber, of

each Chamber, and their distribution among the federating units": "The method whereby representatives from British India and from the Indian States are to be chosen".

I should not be acting properly as your Chairman if I did not tell you exactly what was in my mind, and what I am sure must be in the mind of everyone of you, namely, that in respect of some of the details—indeed I would say of many of the details—which are concerned in questions 4 and 5, that unfortunate matter of communal difficulty may arise. Now, we are not here to discuss that. It is obvious that many of these detailed questions will have to be worked out by a Committee eventually, although it would be helpful now to have an exchange of views and to see how the matter stands with regard to these questions.

If you will allow me to do so, I would like in the next few minutes to put before you certain of the suggestions (I am not going to give opinions) which are made with regard to these questions, and when I have done that, if you will bear with me for a few minutes, I will ask anybody who desires to do so to join in the discussion and to make suggestions. We will take the two questions together.

You will recollect that, as at present advised, we rather came to the conclusion at the earlier meeting of this sub-Committee that there should be two Chambers—an Upper Chamber (we do not know what to call it for the moment; we can call it anything you like—a Senate)—and a Lower Chamber, a House of Representatives. Will you allow me for a moment just to draw your attention to the first consideration, that is the Senate—the Upper House. The first question that you have to consider there (I do not want anybody at the moment to suggest things; that will come in a minute or two; I am simply putting before you the various heads) would be the number of Members. I will ask you to be kind enough as I go along to take a note of one or two figures.

When you have decided the number of Members, you would have to consider how they would be divided between the States and British India. That is a question which we shall not be able to decide to-day, but we can certainly discuss it. Will you kindly remember this—that I am not in any way expressing an opinion; I am only putting out various suggestions. Assuming, for the sake of argument, that upon the Senate there would be, as we have already decided, representatives of the States, that would be the first thing. The second thing would be representatives of British India. Then you will recollect that we rather thought, when we were at the earlier part of our deliberations, that it might be necessary to have some representatives of the Crown, if and so long as (those were the words suggested by my friend Mr. Jayakar and which we put in) there is any reserved subject.

Would you please, then, just make a note of

(1) The States representatives;

(2) British India representatives;

(3) A Crown element.

With regard to the method by which they would be, may I say chosen, with reference to the representatives of the States, that I rather a matter for Their Highnesses. I will come back to that soon if the Maharaja of Bikaner will kindly allow me.

With regard to the British India Representatives, the two methods suggested (and I will tell you the pros and the cons in a minute) are direct and indirect. There are advantages in both. There are difficulties in both. If there are any Crown representatives, as I suppose there must be, the word there will be "nominated". I am very sorry to have to trouble you with details —not that we want to decide the details—but they must be before us in order to arrive at any opinion and, later on, any decision.

I want you now to put down five things as to the elements which you might have to consider when you want to get to the number of people of which the Senate should be composed.

Let me assume, merely for the sake of argument, that the Senate is going to have 100 or 150 or 200. In considering the numbers you would first of all have to take into consideration: (1) Population; (2) Area; (3) Minorities; (4) will be Revenue, (5)—and this rather applies to the States only—is Contribution to Defence.

Now I want you please to come back to Population. I propose to give you figures, excluding Burma.

NOTE—At this point the Chairman gave some figures, which were tabulated in more detail and distributed as follows:—

The Figures of Area and Population of British India and Indian States (after Excluding Burma and Karenni States) According to the Census of 1921

	Area	Population
India	Sq miles 1,805,000	318,942,000
British India (including Burma) Burma (excluding Karenni States)	1,041,000 230,000	246,498,000 13,148,000
British India—Burma	811,000	233,350,000
Indian States (including Karenni States) Karenni States	701,000 4,000	70,192,000 64,000
Indian States	697,000	70,128,000
*British India Indian States	*811,000 53 8* *697,000 46 2*	*233,350,000: 76 8* *70,128,000: 23 2*

* This leaves out of account altogether the Tribal Areas and Agency Territories of North-West Frontier Province and Baluchistan. It does, however, include Indian States in these Provinces, e.g., Kalat and Chitral.

Now I want to go back, with those figures in mind—because you see they are very large figures, millions of people—if you will allow me for a moment, to make a comparison and that is a comparison with the present numbers of the two Legislative Assemblies, in order that we might come to some sort of—I do not say conclusion for a moment, some sort of idea, first of all, with regard to the size of the Senate itself; ought it to be 100, or 150, or 200? The Council of State, as at present constituted, has 60 members, of whom 34 are elected and 26 are nominated; and I want to give you another figure while I am on that, if you will allow me to do so, although it will not come in until later, when I discuss the second Chamber. I want to give you the figures, if you will kindly let me, of the Legislative Assembly. It consists of 145 members, of whom 105 are elected and 40 are nominated. I want to give you one other figure (I am not sure whether it is right or not; we will get it right, but I want you to take it here if you kindly would, subject to getting it right later on), which is the figure given to me for the total electorate for the Legislative Assembly in 1926. That figure is 1,125,000. If it is larger it is all the more pertinent in the argument.

Now let me come back for the moment to the Council of State. The present Council of State being 60 members, if you take that as a sort of guide—supposing you came to the conclusion that for a body of that character the present Council of State, 60 members, was about the right number—you have to consider whether it has worked well, or whether there are too many, or whether there are too few—assuming that it is about the right number for a body like that, it is obvious that with the States coming in the 60 would have to be higher. I have made a sort of calculation; it is only a very, very rough calculation, and therefore I give it to you merely for what it is worth. If you took the exact proportion of extra population that is coming in, I believe that it would work out somewhere about 85 instead of being 60. I am not going to trouble you with that figure; I am only giving you that figure to make a sort of suggestion, not a binding suggestion at all, that if 60 members was about right for the Council of State, and if 60 has worked well this last eight or nine or ten years, it would be more like 100 at a minimum for the Senate.

Now, supposing you were to start for the moment with 100 as a trial figure, then the next question that would have to be decided would be the distribution of that number among the Federating units, and the next question would be, assuming 100 to be the proper number, how many ought to go to the States, and how many ought to go to British India? I think it is easier to do that on a percentage basis, but I rather gathered in the course of some of the discussions we had, that the Princes were of opinion that fifty-fifty would be the sort of basis. I am not myself expressing an opinion upon that at all, because when we come to discuss that we shall have an interchange of views; but assuming now some sort of figure like that, may I address my remarks for a few moments to the Princes, and on the supposition that they are going to

have x members in the Senate, whether it is 50 or 75 or whatever it may be, it would be an impertinence on my part, Your Highness, to suggest to you how you should allocate your x—your 50—between yourselves; but I hope you would allow me, with great respect, just to give you a few sort of ideas as to what has been running in peoples' minds.

As I say, it is very much a question for yourselves for the moment, but with regard to your present machinery for election to your Chamber of Princes, which might or might not form a precedent in deciding how you would divide your x, your 50, you know there is first of all what I call the salute qualification, if you will make a note of that. If I recollect rightly, it is 11 guns or over.

H.H. The Maharaja of Bikaner Nine

Chairman: Nine—I beg your pardon Well, another of the items of your present machinery is this, that the Viceroy decides what States have such full internal powers as qualify them for admission. That is your second thing. First, salute, secondly, internal powers; thirdly, representative members. I attach some importance to that. I am not talking for a moment about the system at Geneva, and I am not talking for a moment about our representative Scottish peers, both of which have been suggested to me as a precedent. Now, in addition to those three, which you already have, you might think it advisable also to pay some consideration to the two general elements which I have already suggested for the main question Area and population And so there are those five things, if you will excuse my mentioning them to you—the salute question, the full internal powers, the representative members, the area and the population.

Now there is a question which I think would rather concern my friend Sir Prabhashankar Pattani, what is to happen? It is perhaps not necessary to go into these details, but it is better, perhaps, that I should put them to you, because you will have to consider them some day. What provisions if any, are you going to make for States where there is a minority? I express no opinion I simply want you, if you kindly would, to make a note of that.

The next item would be the grouping of certain of the smaller States. I believe that in the parable in our Bible a certain man was commended for leaving the best till last. Well, I shall not be commended because I am leaving the most difficult thing till last, and this is the fifth question which I want to ask you to consider. Supposing that the States do not come in all at the same time. Supposing, for example, only a few States were to come in at first. What are you going to do? I have not paid much attention to that, and for this reason I am going to assume that my hope will be justified that a number of States will come in and that therefore that problem is not likely to give us much trouble. I think we all hope, and I am quite sure it is everybody's intention, that sufficient States should come in to make this scheme a workable scheme and I am working on that hope and upon that basis

Might I come now to the next matter. I have said a few words with regard to the States' representatives. Now I come to what concerns the gentlemen on my left, if you will forgive me being just a few minutes longer.

H.H. The Maharaja of Bikaner: There are only two things I want to say. In selecting what we call rulers of States who are members of the Chamber of Princes in their own right, in addition to the qualifications which you have just mentioned, we have also the treaties of States, and, as you know, there are two kinds of engagements with the Crown. One is what is known as a treaty, and I think there are 32 of those.

Sir Akbar Hydari: Thirty-four.

Chairman: I believe there are 40 of those.

H.H. the Maharaja of Bikaner: I think there are under 40 of them. And then there are certain Sanads—engagements. As regards minorities, I am not saying anything. I am most grateful to you for what you have told us. In the Chamber of Princes there is one difficulty which presents itself now. As we have to consolidate our position and deal with matters affecting our treaties and rights, I was of the opinion—and I moved a resolution which was thrown out while I was Chancellor—that in case of minorities, at least, Regents who are members of Royal Houses, like Sir Pertab Singh, who was Regent in Jodhpur, who was the uncle, I think, of the ruler, should come in. That was not accepted by the Princes, because in the beginning they thought that it was best to have only Princes, but in regard to federation the States' Governments will be carried on whether a ruler is of age or not, and therefore the question of States under minorities being represented in the Federal House will arise, because the governments are carried on and the governments will be able to send their representatives in the same way as regards States the rulers of whom are not minors.

Chairman: Thank you. I am very much obliged to your Highness. That clears up one point.

Now, coming to British India, the first great question to consider will be the question of direct and indirect representation, but may I just say this. I am not expressing an opinion, although it does rather appear to me that that question of direct or indirect representation really only becomes acute when you come to the Lower House, and I will tell you why. Whatever number you assign for the Upper House, and whatever number you assign for the Lower House, it is, I should think, obvious that the Upper House will have far fewer members than the Lower House, and with a very few members such as possibly the Upper House will have, I think direct election to the Upper House would present very great difficulties. I will show you why when I come to two or three facts in a minute. Assuming for the sake of argument that it was fifty-fifty in fact and not in percentage, fifty members for the whole of British India by direct election would make it a very

very difficult proposition So on that first question I should think we might possibly say almost at once—I am not saying it—that there must be indirect election.

Note—*At this point* the Chairman quoted some figures which were tabulated and distributed in the following statement —

Population, area and representation of the Provinces and Territories of British India

—	Area. (In thousands of square miles.)	Population (In millions).	Number of Members in the	
			Council of State	Legislative Assembly
Madras	142	42 3	7	18
Bombay	124	19 3	8	19
Bengal	77	46 7	8	21
United Provinces	106	45 4	7	19
Punjab	100	20·7	8	15
Bihar and Orissa	83	34 0	4	14
Central Provinces (excluding Berar)	82	10 8	2	6
Berar	18	3 1	1	1
Assam	49 (*a*)	7 5	1	5
North-West Frontier Province	13	2·5	1	1
Delhi	0 6	0 5	(*b*)	1
Ajmer-Marwara	131	10 3	...	1
Burma	230	13 1	2	5
Baluchistan	9	0·1	...	..
Coorg	1 6	0 2	...	..
Total	...	...	49*	126†

* *Plus* 11 nominated officials representing the Government of India

† *Plus* 14 nominated officials representing the Government of India and 5 nominated non-officials representing the Associated Chambers of Commerce, Indian Christians, Labour interests, the Anglo-Indian Community and the Depressed Classes

(*a*) Excluding the unsurveyed territory.

(*b*) The Chief Commissioner of Delhi is in practice nominated to the Council of State

Chairman: I want to put before you now some matters of a controversial character. Assuming merely for the sake of argument that in the Senate there is going to be 50/50. It is easier to do it if you take a figure like that. With regard to the States, there is the question to which I have already referred of their coming in, which I am assuming that they are going to do. I am going to put all these matters in the form of questions, and I do not want in any way to give an opinion. Supposing that there are only 50 seats in the Senate for British India, it is obvious, is it not, that that is very, very few? Would it be advisable, or would it not be advisable, to have a certain large number of what I call general seats, and a certain small number of what I call special seats? It is not of the slightest use putting your head into the sand and thinking that there are not difficulties. Of course there are difficulties. There is this wretched difficulty with regard to the communal question. I call it a wretched difficulty because I sympathise with the people who are engaged in trying to solve it. I do not want to introduce that into the discussion now. Apart from that question, would it, or would it not, be desirable to have out of the 50 (or if you are going to have 200 in the Senate, out of the 100) out of your *x*, any special seat for, we will say, the representation of labour. I am going to give you four or five things. I am not going to say whether I agree with regard to them. Would it be advisable to have any special seats: (1) for labour; (2) for the representation of the depressed classes; (3) for a representative of European commerce; (4) for a representative of the body of Anglo-Indians (you know what I mean by that); and (5) for a representative of the landlord class. Those are the only five that I have at present on my list. I do not say that they ought to be there, and I do not say that there ought not to be more. With regard to that latter question would it not be a difficulty (but difficulties, of course, can be overcome) to say how such a representative would be appointed? I use the word "appointed" as covering both selection and election.

Lord Reading: Do you include at all any representation for Indian Christians?

Chairman: I beg your pardon; I ought to have done that.

Mr. Jayakar: At the present moment in India the Europeans have two representations, one of them being for European Commerce.

Chairman: I will remember that.

Sir B. N. Mitra: Indian commerce will be a separate one?

Chairman: I will put it in for the moment only. I want to point out to you another matter. I am going to put the pros and cons. It is useless for me to put the easy things and not to put the difficult things. I am going to put a difficult thing now. Assuming only for the sake of argument that British India had 50 members, and supposing that you had for special seats as many as ten, what is the position? I have chosen the figure of ten because it is easier to work it out. It is easier to take ten, because ten

from the 50 leaves 40, and you would have 40 general seats. My friends, you will have to think about that. I am not going to address you upon that any longer. It might be an argument for cutting down the special seats; it might be an argument for saying that you ought to have more than 50; it might be an argument for saying that it ought to be 60 and 40. It might also be an argument for increasing the total number of the Senate, because if it were more than 100, and supposing that it were 200 (I am not saying that it ought to be), you see how it would work out.

Lord Reading: Before you proceed I should like to be clear about this matter. You are speaking all the time of a division between British India and the Indian States

Chairman: Yes.

Lord Reading: I quite understand that when you are dealing [illegible] to be allotted to each You are [illegible]

[illegible]

Lord Reading: But when you talk of 100 seats being allowed to the Chamber, and then you divide them up in proportions, you are making no allowance for the Crown I am quite willing to leave it out as long as it is understood that that has to come in at some time.

Chairman: I was just coming to that. Again I have left the tiresome question until the last We rather thought in our first Report that there should be some representative of the Crown Here again I will give my figures That was the next matter to which I was coming. I will put this again in the form of a question, and I do not want an answer now I am again putting it generally. The first question is: Ought the representatives of the Cro[illegible] for discussion and exp[illegible] majority of the gentlem[illegible]versation have rather thought) for voting purposes as well? If it is the first, that is to say for information and discussion, you need not trouble about the 50/50. If, on the other hand, they are there for voting purposes, that alters the figures to some extent There are two suggestions, and I do not say whether either of them is right. It has been suggested that supposing we rather thought that the number of representatives of the Crown ought to be x (I purposely refrain from giving a definite figure) that each side, that is to say, Your Highnesses and you gentlemen on the other side, ought to make way, and that x over 2 would be subtracted, so to speak, from your side. Instead of having 50, supposing that x was 4, each side would have 48. Another way of doing it is to take the number for the Crown first, and then have your percentage. I want to give you the figures now. I am going to deal with the Lower Chamber at once. Similar questions arise. I assume that the Princes will come in by their representatives. Those questions to which I have referred in the case of the Senate will arise to some extent in the case of the Lower Assembly. I have read Sir John

Simon's Report and the Government of India Despatch a good many times, as, of course, everybody has. In the Report of the Commission I think that I am right in saying that at first they suggest 250—280 members for the Lower House, subsequently working up to 300—400. The figure in the Government of India Despatch, if I remember rightly is 200. I am working on the figure of 200 for the Lower House. I do not say that it is enough; I express no opinion about it. The first question that you will have to consider is the question of direct or indirect election. We rather thought that with regard to the Upper House, that question was not so acute. With regard to the Lower House, I will think aloud for a moment. The Lower House is generally thought to be a sort of popular Assembly, as distinguished, shall I say, from a non-popular Assembly. Therefore, those of us who have advanced democratic ideas would say: " For a Lower House, and for a popular Assembly, of course direct election ". That is all very well as an ideal. You cannot realise everything at once. You may get it in the future. If you are only going to have 200 members, let me give you a figure or two—and these are the figures, Lord Reading, where the Crown comes in. Assume, if you will, for a moment (and His Highness of Bikaner will, I am sure, forgive me) that the States would have 33 per cent.—one-third. Do not take it from me; I am not saying it is right; it might be less. Out of a House of 200 that would be 66 members. Assume British India has 62 per cent. Out of a House of 200 that would be 124. Assume the Crown has 5 per cent.—and here, Lord Reading, I give the figures which I want to be applicable; we are only just discussing it at the moment; it may be quite wrong; it ought to be more; it may be that it ought to be 10 per cent. That would give 10 people with full powers of discussion, information, and voting. The figures, then, would be 66, 124 and 10. I am not saying they are right, but we must start with some sort of basis for discussion.

Now with regard to election. If you will be good enough to look at that figure, on the supposition that British India has 124 members, even if you had the present system of electorate as obtains for the Legislative Assembly, it is a tremendous electorate. How could one of those numbers be in touch with the electorate?

Recollect this. There is a Franchise sub-Committee sitting at this moment. The tendency of that sub-Committee will be to enlarge the franchise basis, and therefore the probability is that the number of people voting for this Lower Assembly will be larger than the number of people voting for the Legislative Assembly.

The number of elected members of the Legislative Assembly at the present moment is 105. On this 200 basis you are only taking 124. That is, you are only taking 19 more on that basis than you have at present on the present Legislative Assembly. If you are going largely to increase the number of electors, and are only going to increase the elected members by 19, see the difficulty of direct election.

I am not expressing an opinion, but I will give my own persona[l] opinion at once I like direct election, but I cannot always hav[e] what I want. All I am thinking of is this · How are you going to do it? That is one of the questions which we shall have to settle —I will not say settle now, but it is one of the questions we shall have to discuss. It is a very difficult problem, and I only indicate it to you so that when we begin to discuss it we may be clear in our opinions with regard to it.

Sardar Ujjal Singh May I refer to the 200 to which you referred as being the number of the Lower House The Government of India suggested this 200, not taking into consideration the States. It was only for British India You are taking that basis both for British India and for the States as well

Chairman That is perfectly true I am much obliged for that, because that was the very last thing I was coming to I did it for the purpose of comparing those two things If the effect of the States coming into an Upper House—(I told you the number was to increase the number in the Upper House was about one-third)—the effect of the States coming into a Lower House would be to increase the representation of the Lower House as well Therefore, those figures have to be automatically increased by whatever number you think the addition of the States in the Lower House would make. I have only given you those figures in order to let you compare the numbers given by the two authorities—the Commission and the Government of India Supposing you have to increase it by one-third, the sum is quite easily done But even if you do increase it by one-third the numbers for British India would only be 41 more and you would have 165, and where you have such enormous electorates as you are likely to have an addition of 30, 40, 50 or 60 more elected members does not make very much difference.

Mr. Jinnah · If you take the figures at present, the number [o]f elected members of the Assembly is 105. The total number [w]hich is now suggested by the Government of India is 200. There[fo]re you are getting 95 more elected.

Chairman : You are quite right But my answer is this: even [if] you had that number, there again it depends a little upon what [the] Franchise sub-Committee do I have made a very absurd [cal]culation You cannot compare India at the moment with us[?] I will give you a most silly figure. Supposing, for example, take the Senate. Supposing in the Senate British India had members, and supposing 10 were special seats, so that there [were] only 40 for general elected members. The population of [Briti]sh India is 233,000,000. If you divide 40 members into [233,0]00,000, that is, roughly speaking, one member for every [...],000 people. If you were to apply that in England our [House] of Lords would have eight members. In England, Scotland [and W]ales there are about 50,000,000 people—40,000,000 in [Englan]d, 4,000,000 or 5,000,000 in Scotland, and a few in Ireland [...]50,000,000.

We will come back to the first question—"The number of Members composing the Federal Legislature."

Sir Muhammad Shafi : Let us discuss the number in each House, and then the question of division between British India and the Indian States.

Chairman : Very well—the total number of each House. Would any of you like to initiate a discussion in order to give us some sort of idea as to numbers? Is 100 right. We will take the Senate first.

Mr. Sastri : Roughly, I am for 150 for the Senate and 300 for the Assembly.

Sir Muhammad Shafi : I was thinking of 300 for the Lower House. So far as the Senate is concerned, my idea is 100 plus as many seats as you want now for the present for the Crown representatives. Those seats would disappear after the reservations had ceased to exist, and the Senate would consist of 100 members.

Sir Samuel Hoare : The difficulty of having the numbers so different in each House is that it really excludes the possibility of joint Sessions. If you have 100 in the Senate and as many as 300 in the House of Representatives, it over-weights very much the numbers from the House of Representatives.

Sir C. P. Ramaswami Aiyar : The point about that is this. If you are going to have the principle of direct election in the Lower House it would be difficult to arrange it otherwise than on the basis of something like 300. It would be impossible to make arrangements other than on that basis. So far as joint Sessions are concerned, I took it at one stage that the idea was broached (and it seemed to be a good one) that the joint Sessions need not consist of the full Houses, but of certain selected Members from each House with certain allocated functions in the matter of an agreed majority. A full House might lead to some difficulty, such as has been suggested by Sir Samuel Hoare. It appears to me that to lessen the number of the Legislative Assembly or the Lower House in order to be more in conformity with the numbers of the Upper House would be to introduce other complications in the matter of representation of all the interests which deserve representation in the Lower House.

Lord Peel : What you are suggesting is something different—not a joint Session, but what we might call a joint conference—which is a different thing.

Sir B. N. Mitra : I should like to know what the objections are to Mr. Sastri's figure.

Sir Samuel Hoare : It is a much bigger figure than the Government of India Despatch figure.

Sir B. N. Mitra : The Government of India Despatch figure for the Legislative Assembly of 200, does not allow for the Indian States. Mr. Sastri's figure of 300 allows for the Indian States' representation.

Sardar Ujjal Singh: As a matter of fact, accor proportion we were assuming, the States would hav representation in the Lower House, and the number 20 British India, which is the figure given by the Gove India.

Sir Tej Bahadur Sapru. You gave us the figure fo India and for the Indian States, excluding Burma, as fo 70,000,000 who belong to the Indian States, and 233,000, belong to British India. The sum total of that is 303,0 Mr. Sastri has suggested 300 for the Lower House and 150 Upper House. I think that is a reasonable figure on the that Burma is to be excluded. When the Government of sent their Despatch they had not the remotest idea that we s be discussing here an All-India Federation, and that the In States would be willing at once to come into that Federation. T talk of a Federation as a very remote ideal. If the Indian St are to come into the Federation at once, it is obvious that t figure of 200 cannot hold good. Apart from that, there has alwa been dissatisfaction in the country at the number in the Assembl I am not raising the question of whether we should have dire election or indirect election, unless Your Lordship wants me t efer to that; but I certainly think that in a country of 303,000,00 en you cannot have 200 people representing that country in the ower House. I therefore think that Mr Sastri's figure is the ht figure. It is exactly half of that which Mr. Sastri suggests the Upper House. So far as the Upper House, or the Federal se, or whatever you like to call it, is concerned, you have at present moment 60 men sitting in the Upper House, and out of those 60 men 34 are elected and 26 are nominated. Again, the Upper House will consist of Representatives from British India, from the Federated Provinces of British India, and from the Indian States. To my mind 60 would be an absolutely insufficient and inadequate figure. I therefore think that you must have a figure of 150, which represents exactly half of the Lower House. I should not like to go beyond this point at the present moment, except to point out that I adhere to my original proposal of a oint Session of both the Houses. I do not like the idea of a elect number of men from the Upper House and a select number of men from the Lower House coming in. As a matter of fact, this idea of Grand Committee was considered very seriously when the Montagu-Chelmsford Reforms were under consideration, and it was also considered by the Committee of which I was a member. The procedure of Grand Committee, or Inquisition, or whatever you like to call it, is a very peculiar procedure, and when the Indian States come in with their point of view I do not think it would work at all. You might provide other safeguards in order o get over deadlocks and difficulties which may arise, but they ust be specified at the very outset. Therefore I adhere to Mr. stri's figures of 300 and 150. You must also bear in mind th have got to make an appeal to the country. It i

a constitution which we here think is the right one, irrespective of its possible reaction in India.

Sir Samuel Hoare : If you do not have a joint sitting, and the Lower House is twice as big as the Upper House, it means the Lower House always wins by an overwhelming majority in a division in ordinary circumstances. How would you deal with that?

Sir Tej Bahadur Sapru : The more I think about it the more I feel that you can provide against all the difficulties by laying down a rule to the effect that the decisive vote shall consist of a certain number of votes—a minimum majority, two-thirds or three-fourths, or whatever it is.

Lord Peel : In the joint session as well?

Sir Tej Bahadur Sapru : In the joint session.

Mr. Jinnah : How would you avoid the deadlock?

Sir Tej Bahadur Sapru : You will avoid the deadlock by saying that if there is a session of 450 people there must be a clear vote of two-thirds.

Sir Samuel Hoare : Then, Sir Tej, if you do not get the clear vote, which chamber then is the predominant chamber?

Mr. Jinnah : Quite so.

Sir Tej Bahadur Sapru : There is no chamber which is predominant. Both chambers sit together.

Mr. Jinnah : No, no. Supposing there is a conflict; the Lower House decides to do one thing, and the Upper House decides to do another thing; there is the deadlock. You have a joint session. Supposing the decision is not obtained because the requisite majority of two-thirds is not available, then how would you solve the deadlock?

Sir Tej Bahadur Sapru : Well, I will deal with that.

Mr. Gavin Jones : This question of the numbers is, I think, very important because it affects the powers of the two Houses, and I am strongly opposed to the Lower House dominating the Upper House. I have already made a proposal that we should, to some extent, adopt the German Federation's constitution, in which the conditions were very similar to what they are in India—that is to say, that a number of autocratic States were persuaded to join the federation, and the only way they could be persuaded to join was when it was made clear to them that they would not be dominated by a popular chamber. Then the question of the popular chamber also requires consideration from the point of view of the question of numbers. If you are going to have a Lower House directly elected, it affects the whole situation; so the whole thing really is rather bound together, and I would make the suggestion that the decision of the Upper House should, as it was in the German Federation, have over-riding powers which should be made final. Then the question of the numbers of the two Houses

is not so difficult to decide. I would suggest that the Upper House should not be more than 80. The Bundesratd, I think I am right in saying, was not more than 50. If you had an Upper House of 80 and a Lower House of 160, I think that would be more reasonable. It is no use, in my opinion, comparing areas and populations in deciding the present constitution of India, because the conditions are totally different from those in any other country—any country in Europe—and we shall find it difficult enough, the different communities and the different States will find it difficult enough, to man all these seats. Therefore I suggest that we should fix the number provisionally at 80 and 160

Sir Muhammad Shafi: Then it is the same proportions—80 and 160

Lord Peel: I only want to comment for a moment on what Sir Tej Bahadur Sapru has said, because he has been rather, I think, proceeding upon the basis, to some extent, of what was recommended by the Government of India for another Assembly. Well, this is a totally different assembly, of course—the Federal Assembly—and I do not think the arguments which were introduced in that document for the purpose of giving the numbers of the unitary Assembly for British India are really very relevant to this question of the Federal Assembly, where these specific federal powers are in question He told us, too, that for 300 millions of people 200 members was rather a small number, but I think any number really sounds small when you are dealing with 300 millions of people I am not sure that 300 members strikes me as very much more important than 200 in that connection; and is it the right connection? Sir Tej told us that we had, of course, to consider political feeling in India No doubt, but does he mean to say that the question of the exact numbers in the Assembly is really one that will move feeling very strongly in India?

Sir Tej Bahadur Sapru. Yes, certainly.

Mr. Sastri: Yes, certainly.

Sir Tej Bahadur Sapru: Take it from me, political feeling in India will be moved.

Lord Peel: Because I was going to suggest that anyhow one consideration that must be taken into account is not whether 300 millions of people have 400 or 500 members in the Assembly, the question is, you want a workable Chamber. That is the real thing, and surely India would be much more satisfied if you got a smaller Chamber and a workable Chamber, and one that did its work well, than if you got a Chamber that is very large. After all, I should have said that Western experience was strongly against these large Chambers. They certainly have not worked well, and they tend, of course, to split up into a number of parties I was in Poland the other day, and they told me there were 32 parties in the Assembly there. That does not work well. There-

fore the smaller you can get this Assembly, I should have said, giving fair representation to both sides, the better. I do not like to give an opinion for the moment on this question of the relations of the two Houses, because it is an extremely difficult one when the second House is really equal with the first, and is a House of such importance, and I must say that I should rather have liked to see figures worked out showing exactly what would happen in certain circumstances if you had these joint sessions, and which House was likely to win, and what majorities you wanted.

Mr. Gavin Jones: That is my point.

Lord Peel: I should like to see these figures worked out very carefully. At any rate, it is towards the smaller Chamber that we should be inclined at present.

Mr. Jinnah: It seems to me that we are taking this figure partly from the Simon Commission's Report, and partly we are thinking of the Despatch of the Government of India. Now, I think we must remember that neither the Simon Commission Report nor the Government of India Despatch contemplated an All-India federation. Not only that, but I rather gathered that they contemplated no responsibility in the Central Government, which is still more important. It was not merely the Federal constitution, but the powers of that federal Government and the powers of your executive are now being contemplated by us, which were not being contemplated either by the Simon Commission's Report or by the Government of India Despatch. Therefore we are faced with a very different issue, and therefore in considering the number I think, with all respect, you might leave the Government of India Despatch as well as the Simon Commission's Report on one side. That is all I have to say.

Lord Reading: After all, it always comes to what is a proper workable Chamber for both Houses, and, if I may say so, there seems to be a great deal in what Mr. Jinnah has said, that you must not pay too much attention to the figures which have been presented to you on a totally different basis, but it is important to keep your Chambers as small as possible for the purpose of setting out on this new constitution. I should have thought, listening to the whole of the argument, that really what strikes me as the most workable way of it is that if you have the Senate with 100 representatives, as Sir Muhammad Shafi suggested, *plus* whatever is allotted for Crown representations, which would make quite a useful House and not too large, and keep your Lower House into a proportion of 250, which would give you a better relative proportion of the Lower to the Higher House, there is not much difference in it, but there is some. You get 100 *plus* Crown representations in the Upper, and 250 all told in the Lower Chamber. I doubt very much whether we shall get any assistance from looking at the figures as they would have been under a unitary British Indian constitution, because what we are now engaged in is in working out an All-India constitution in which I would suggest the assump-

tion upon which we ought to start is that this will be a constitution which will work, and in respect of which many of the considerations which we would apply to the past have no longer any application when we come to the All-India system. I should have thought that Houses constituted on that basis ought to be sufficient.

H.H. The Maharaja of Bikaner: I must say I was rather surprised to hear that there is going to be possibly so small a total number of members in the Upper House. We have the very difficult problem of the representation of our States There are 108 States who, as you know, are members at present in their own right of the Chamber of Princes. *There are 127 other States* who, between them, return 12 members Well, from the point of view of the States I want it to be realised here that we here have to consider the large number of what are known as the less important States, and a feeling has already, I submit, quite unfairly got round that the bigger States are not taking any notice of the smaller ones. We are We want to see their interests as fully safeguarded as possible We thought you would have something like 200 members of the Upper House and something like 300 in the Lower House, and I understand that even for British India alone the Simon Commission Report—I hope I am not committing any very serious offence in mentioning it—proposed 300 for the Lower House; so from the point of view of the States it would be *very difficult with us if the seats in the Upper Chamber were to* be restricted or were to be too small As regards the numbers which we shall elect in consultation with the Viceroy, if it is going to be too few I foresee great difficulties so far as the States are concerned.

Sir Akbar Hydari. I think in this matter I should speak with a different voice. I am more or less in favour of the restricted number suggested by Lord Reading with regard to the Upper House, because if we are going to give individual representation to each of the smaller States singly then there will be a difficulty with regard to giving adequate representation to the larger States, and then you will have a great deal of difficulty in making the Senate an assembly of manageable proportions. The only way in which we shall have to deal with the question of 500 Indian States is to have a definite number decided as to the total strength of the Upper House with reference to what will make it manageable, and then to have whatever number is allotted to the Indian States settled between themselves by mutual agreement, failing which the Viceroy or some other party will have to decide. But I do not think that it would be desirable to construct your Senate with reference to the large number of small Indian States that you have, and then to have a much larger number of British Indian representatives added, thus making a very large Upper House, and then go on by making your Lower House larger still. There would be many difficulties from the Indian States' point of view in order to furnish so many representatives in the Upper House and the Lower House. Therefore I should have preferred,

especially when you are giving so much provincial autonomy, and when you have got there really a large number of representatives elected by manageable constituencies, we should let the numbers of the Central Legislature remain unaffected, except to the extent of adding to that number a proportionate number of Indian States' representatives; but in any case, in order that the legislature may be manageable and workable, I would certainly not advise that any legislature in the Upper House should consist of more than 100 *plus* the Crown representation, and the Lower House more than 200 *plus* the Crown representation.

Sir Mirza Ismail: I am certainly of the opinion that the representation in the Lower House should be on the basis of population, whether it be in British India or in the Indian States. That means to say that would give us about 300 members for the Lower House, and as for the Upper House, the Senate, I feel that about 100 members ought to suffice, excluding the representatives of the Crown.

H.H. The Nawab of Bhopal: I think the difficulty facing us at this time is how to get all the interests in the States represented properly. We have had that difficulty, and we cannot ignore it. That was the reason why His Highness of Bikaner asked for a larger number of seats in the Upper House, and if we only took into consideration the interests of the bigger States, I think we should be landing ourselves in great trouble in India, and we might very seriously injure the prospects of federation, which none of us would like to do.

That is the only reason why we are asking for a larger number of seats. I think that the reasons given by His Highness, and now given by me, ought to be very carefully looked into, because we are here not only to safeguard our own interests, or the interests of the bigger States, but also the interests of the smaller States. That is why it is necessary to enlarge the number. As you know, the number of Indian States is between 500 and 600, although the important States may be 30 or 40. You have to take into consideration the number of the smaller States as being over 500. You also have to take into consideration the fundamental principle that in the Upper House, as far as it is practicable, each State or group of States has an equal number of votes.

NOTE.—H.H. of Bhopal subsequently expressed his views on this subject at greater length in a Memorandum which is reprinted at the end of these proceedings. See Appendix I.

Sir Samuel Hoare: Obviously we have to pay great attention to what Their Highness have just said. Any figure that we discuss here must no doubt be subject to negotiation afterwards and talks between them and their colleagues in India. I am talking now only of the States. Speaking for myself, I very much hope that when Their Highnesses come to discuss the question further, it will be found that it is not necessary to make conditions that

will necessitate as big a legislative organ at the Centre as been discussing. My own view is that the Federal aspe India has very much changed the whole problem. The Federal Assembly that I am contemplating is not in th upon the model of the House of Commons here I am as that there is going to be a great outlet for what I wi Parliamentary politics in the Provinces I am hoping very that the Federal organs will be much more based upon models of other Federal organs, namely, small bodies capab action, and capable of quick action, within the limits of the gated powers. After all, the powers that the Federal organs have will be of a limited kind Their powers will be with reg to subjects of the kind that we have already delegated to the I should have thought that for dealing with subjects of that ki quite a small Senate, say, not more than 100 members, and House of Representatives of not more than 200 members, would have been ample. I admit quite frankly that my view is biased by the conviction that neither for the one nor for the other is irect election a suitable method of selection I will not at the oment go in detail into the question because we must deal with later. Having that as my basic conception of the Federal gans, and feeling quite definitely that direct election is not the best way of recruiting either one or the other, I should very much hope that when Their Highnesses come to think further of the question they might find it possible, either by federation amongst themselves or by some other method, to demand not such great numbers as His Highness the Maharaja of Bikaner and His Highness the Nawab of Bhopal have just demanded

H.H. The Maharaja of Bikaner It you have even 200 members in the Upper House and the States get, say, 74, anyhow you have 108 members of the Chamber of Princes and 127 for States which return 12 members, many of the States who are coming into the Chamber of Princes will have to be grouped If you have only 50, I do not quite know how we are going to fit in the 108 members representing three groups There are many important States which have Senates I do not want to name them. As I have said, we can do it in consultation with the Viceroy and with the States concerned, but if we are going to have only 50, I cannot see how we are going to arrange for the representation of the comparatively important States in the Upper House.

H.H. The Nawab of Bhopal : What about the Lower House?

H.H. The Maharaja of Bikaner : If you had 300 I do not think at we should have any difficulty so far as the Lower House was cerned With any number under 100 it would be very difficult us There would be tremendous dissatisfaction on the part of t I may call the comparatively important States.

r Akbar Hydari · May I read the comparative statistics of States, and then this Committee will be able to ascertain are the concrete realities?

At this point Sir Akbar Hydari gave some figures which were incorporated in a tabular statement and distributed as follows :—

CLASSIFICATION OF INDIAN STATES BY (1) SALUTE, (2) AREA, (3) POPULATION, (4) REVENUE.

(1) *Salute* (permanent)—

21 guns	5
19 ,,	5
17 ,,	13
15 ,,	17
13 ,,	16
11 ,,	29
9 ,,	23
Total	108

Square Miles.	*Class A.*	*Class B.*	*Total.*
(2) *Area*—			
0—10	—	167	167
10—100	2	159	161
100—1,000	56	70	126
1,000—10,000	50	13	63
10,000 and above	12	1	13
Not given	—	32	32
Total	120	442	562

Number.	*Class A.*	*Class B.*	*Total.*
(3) *Population*—			
Under 1,000	—	154	154
1,000—10,000	—	174	174
10,000—1,00,000	47	77	124
1,00,000—10,00,000	61	15	76
Over 10,00,000	12	—	12
Not given	—	22	22
Total	120	442	562

Rs.	*Class A.*	*Class B.*	*Total.*
(4) *Revenue*—			
Under 1,000	—	28	28
1,000—10,000	—	149	149
10,000—1,00,000	2	195	197
1,00,000—10,00,000	58	69	127
10,00,000—1,00,00,000	52	—	52
Above 1,00,00,000	8	—	8
Not given	—	1	1
Total	120	442	562

N.B.—*Class A in (2), (3) and (4) above consists of the States which have salutes, including 8 of which the salutes are not permanent. Class B consists largely of estates.*

Sir Akbar Hydari. Whilst, on the one hand, the number of States may be exceedingly large, the real number of States that count, and that ought to be considered, is comparatively few. What I am urging is, that whatever number you may fix, it will be impossible for you to get in most of the States except by grouping.

Mr Sastri : I have an observation to make with reference to the remarks of Sir Samuel Hoare. Sir Samuel Hoare laid stress on the limited functions of the Federal legislature I rather think that he overlooked the fact that we are going to assign certain other functions also to this legislature. There are subjects which we are going to call Central, which are not altogether unimportant, which have to be assigned to this legislature

Sir Muhammad Shafi : What these subjects are to be called is a question of nomenclature which has not yet been settled.

Mr. Sastri : There is a large body of Central powers which, apparently, has escaped the attention of Sir Samuel Hoare We have further to remember that these legislatures for the consideration of these subjects will sit without representation from the Indian States.

Sir Samuel Hoare We have not decided that yet

Lord Reading: I did not think that we had decided that the Lower Chamber would sit without the representatives of the States.

Mr. Sastri That is a suggestion which has been thrown out.

Lord Reading. I agree that it is a suggestion

Mr. Lees Smith: If was left open.

Mr. Sastri : It is quite probable that that would be the case. If that were the case our numbers would be greatly reduced.

H.H. The Nawab of Bhopal. Subjects which you call Central are also in a way Federal. It is only because the States are not connected with them that there may be any difference They are really Federal subjects.

H.H. The Maharaja of Bikaner. All-India subjects.

Lord Reading : They are all-India but they are not Federal It may be that they are partly Federal, and partly not Federal.

Sir Samuel Hoare: I quite agree with Mr. Sastri that the suggestion was thrown out. We did not investigate the question further, nor did we come to any kind of even tentative decision upon the subject.

Mr. Jayakar : With regard to the number of members in the two Houses, I think that some *via media* will have to be found, and that will have to be judged by test. I quite agree that the most important test is what would make the House more workable. There are, however, two important considerations which cannot be overlooked. There must be a sufficiently large number to afford proper scope and opportunity for the politically minded men in the country. That is a very important consideration that I should

like to bring before you. Judging by that test of what is likely to satisfy the country 7,000 miles away, which we are apt to overlook in our considerations here, the rising public spirit of the people is a very important matter which has to be taken into consideration. If you devise an ideal constitution here judged by the test of workability, but which does not provide proper scope and opportunity for the growing public spirit of the people, that constitution will find itself stultified to a very large extent. I should, therefore, urge upon the consideration of the members present that we are providing on the basis which has been given of one representative for one million population.

I think that the public spirit is growing in India very rapidly. I should therefore urge that that is a very important consideration to be kept in view. It must give a proper scope and opportunity to the people. Mr. Sastri's figure of 150 for the Upper House and 300 is more likely to be satisfactory, judged by these tests. A large figure would be more satisfactory than a lower figure, however satisfactory the lower figure may be from the other point of view, namely, that the House will be more workable and more compact.

Chairman : That is most valuable. I think that we have exchanged views with regard to this. I will put the two extremes, and then we will come on to the next question. With regard to the Upper House, the lowest suggestion is that of Mr. Gavin Jones of 80; the highest suggestion is that of His Highness the Maharaja of Bikaner of 200. With regard to the Lower House I think that my friend, Sir Muhammad Shafi made the lowest suggestion. I think that he said 150 plus the Crown people.

Sir Muhammad Shafi : I said 300. It was for the Upper House that I suggested 100, plus the Crown representation, which would disappear in the course of time.

Chairman : You cease to occupy that position, Sir Muhammad Shafi, and your position will have to be taken by somebody else who gave the lowest number, which I think was 200.

Mr. Gavin Jones : 160 was my figure.

Sir Samuel Hoare : I suggested 200 as the maximum.

Lord Reading : Mr. Gavin Jones put it lower.

Chairman : This is not a question upon which there should be any final breakdown of my conference in the world. When it comes to choosing between 80 and 200, and 200 and 300, of course we shall settle the question in due time. It is a matter of detail, and the members around this table are men who want to make a settlement, and who are all anxious to make a settlement. This question is not insoluble. Leaving for the moment the question of how many for the Upper House and how many for the Lower House, the next question is: the number of members composing the Federal legislature, and their distribution among the federating units. We have had a discussion on "The Number of Members composing the Federal Legislature, and if the Legislature is of more than

one Chamber, of each Chamber, and their distribution among the federating units." The question for discussion now is "the distribution among the federating units." As I ventured to put before you as a result of this morning's discussion, it is quite obvious that we shall come to some agreement at sometime as to the numbers. There is no great cleavage of opinion there. With regard to the distribution, perhaps we may think of it on the line of percentages for a moment. Let us assume, only for the sake of argument, the convenient figures of 100 and 200. It may be 150 and 300. We are not on that for the moment. The questions we shall have to consider now will be the distribution in the Senate and the distribution in the Assembly. That is a matter in which we are all interested, but perhaps it is more for British India and the Princes than for us. In addition to that there will be the few members who will be added not at the expense of either of you, if and so long as there are any Crown subjects. Perhaps we might therefore start a general discussion Do not confine yourselves either to one or the other We are just assuming that the Senate is 100 or 150 and that the Legislative Assembly is 150 or 300. Taking that assumption, what is the sort of fair thing between the two component parts of the Federation, namely, the Princes and British India?

H H. The Maharaja of Bikaner Before we start the general discussion, Sir, I hope I shall not be out of order in drawing your attention to the tabular statement (printed above)

I would like to remind this sub-Committee that there are five Princes who have a salute of 21 guns We know that there are some anomalies, and that some States may not have the right of salutes, but this is the present state of things there are five Princes who have a salute of 21 guns (This is permanent) There are five Princes who have a salute of 19 guns There are thirteen Princes who have a salute of 17 guns There are seventeen Princes who have a salute of 15 guns. There are sixteen Princes who have a salute of 13 guns There are twenty-nine Princes who have a salute of 11 guns and there are twenty-three Princes who have a salute of 9 guns That makes 108, which constitute the States who are members of the Chamber of Princes in their own right. Sir Akbar Hydari a little while ago said that some of the States had not joined the Chamber. As a matter of constitutional fact, every one of these States is by right a member of the Chamber of Princes, though they may not, as it is optional, decide to take part in it. Beyond about three States I do not believe there are any which can be said to hold-aloof. However, that is not the point.

Then in regard to the number of so-called States to which Sir Akbar referred, I would like to point out that if you look through the geographical locality of the so-called States, which are not States, you will find that the vast number of these petty States are in Kathiawar and in Central India How they have become sort of States, as they are wrongly called, is as follows. I want to say

that we attach importance to them and want to safeguard their rights just as much as our rights. They were nephews and younger cadets of the families of the Great Houses who were States. I am not acquainted with the history of Kathiawar as well as Sir Prabhashankar Pattani, but it was the policy of the British Government, rightly or wrongly—I do not want to go into that now—so to say, to isolate the States, if I may use that term. Therefore one man with a well deriving a revenue of 48 rupees, or less than £4, is also a State. That has been all our trouble, whether in regard to our honours and dignities or our sovereign powers.. I wrote a Minute on this for Lord Hardinge when he was Viceroy in 1915, and I quoted from Aitchison's Treaties the different designations given to these so-called States. I will give you just a few of them. At one time in the Bombay Presidency there were seven different classes of States, called first class, second class, and so on, petty States, Taluqdaris, territories of jurisdictional Taluqdars, Jagirs, feudatory States and so on. That gives you a very good idea of what these States are. When we began to think of representation, even in the Chamber of Princes, we found that the interests of these States was sufficiently safeguarded by the bigger States and the representive groups of States. That is all I want to say. Perhaps you will now hear His Highness the Maharaja of Bhopal in connection with the points you have asked us to discuss one of which is, I think, as to the percentage of representation.

Chairman: That will be the first thing—the percentage of representation; what is to be the distribution among the federating units. When we have done that we shall discuss the Crown Members and after that we shall discuss the method by which they are to be chosen. Perhaps His Highness the Maharaja of Bhopal will now give us his views on the percentage in both Houses.

H.H. The Nawab of Bhopal : In the Federal House, as you know, Lord Chancellor, we are asking for 50/50, and in the Lower House, as you pointed out 60/40. I do not want to say that this is a definite proposal from us.

Chairman : In coming to 50/50 for the Upper House, and in coming to 60/40 for the Lower House, I am not for a moment saying you are wrong; that is not the point I am on. What I want to ask you—but do not answer it if you think it is a wrong question—is, in coming to the 50/50 and in coming to the 60/40 have you made any particular basis the subject of your request, or is it a sort of general suggestion?

H.H. The Nawab of Bhopal : It is general for the present. The 50/50 we claim on the basis that in all federations known to us every State has an equal number of votes in the Upper House, for instance in Australia and in the United States of America. In the German Confederation they were not equal votes, but in the German Constitution Prussia, with its area of 134,000 square miles and its population of forty millions, had 17 votes, and Bavaria,

Saxony, Wurtemburg, Baden and Hesse, with a total area of 51,000 square miles and a total population of seventeen millions, had equal numbers of votes—17/17. Therefore, population and area are not the basis on which these representatives in the Upper House go. There were altogether 58 votes in the Confederation in Germany, and 17 were Prussia, 17 the five States which I have just named, and the rest, 20 or 24, whatever the rest was, out of the total went to the other States. Therefore our reasons for asking for 50/50 were that in the Upper House which I am talking about these figures are not based on areas and population, but that there are other factors in it, and in certain other federations known to us there are always other claims. That is why we put in the claim for 50/50

Chairman : Thank you very much, Your Highness. You have told us very clearly why you say 50/50 In effect you are saying something like this: Supposing England and France were going to federate, on one side England, on the other side France, population and area do not matter; for this purpose they are equal.

H.H. The Nawab of Bhopal . I should like to add one more example. New South Wales, in Australia, for instance, has an area of 210,000 square miles, and a population of 1,857,000, and Victoria has only 87,000 but they have six votes each, if I remember correctly, in the Upper House I am only pointing out that population and area are not the things on which we should go, and that there are other bases as well, amongst those which were just read out by His Highness of Bikaner.

Lord Reading : The American Senate is a good instance, where you have a representation for the population and area A big State like New York, with a great population, has no better representation than Rhode Island.

Chairman: Now with regard to the 60/40 you have put it very clearly, if you will allow me to say so, with regard to the 50/50 in the Senate. Could you give us the same sort of idea of what led you to suggest 60/40 as the proper number in the Lower House?

H.H. The Nawab of Bhopal · An important question is that you will find, among your discussions, that other important interests are claiming weightage, and if they get their weightage, I think we also are important enough to claim some weightage That is the one point on which I wish to claim this basis, but we shall go on discussing that later.

Chairman : Oh, certainly. Gentlemen, you have heard what His Highness has said with regard to the Senate, and the reasons he had put for it, and the precedents that he claimed to be the precedents that we ought to follow, and you have heard what he has said with regard to the 60/40. Would any of you gentlemen like to make any remarks? Mr. Sastri or Sir Tej, have you anything to say?

Sir Sastri : Before I say anything by way of expressing an opinion on the matter, may I ask a question or two. I am not

quite clear about class B here. Of course, I do not know whether the matter is still mature, and whether the question will receive an answer, but I should like to ask whether the 422 entities mentioned under class B are all included under the yellow patches.

H.H. The Maharaja of Bikaner : Yes.

Mr. Sastri : And whether it is intended or whether it is likely that they will get any proportion of the representation, or whether, when the representation is allotted to the whole of the Indian States it will be equitably divided among the classes A and B or whether it will be engrossed with class A.

H.H. The Maharaja of Bikaner : Well, that is a question which we find difficulty in dealing with in detail here, because it wants very careful working out, and consultation amongst the various States and the interests of the States concerned, and also possibly ultimately, where there is any dispute we may have to have the Viceroy as Umpire; but other anxiety is to get the interests of even the smallest States reasonably safeguarded in every way, but even the Chamber of Princes, for that reason, with regard to some of these so-called states of which I gave you a description from Aitchison's Treaties, as they are termed in it, found it impossible to give them any direct representation even through a group of States being there. We shall have to go into that carefully, and there are other questions which we shall have to think over more carefully than is possible now; but once the foundations are settled and our proportion of representation is settled then we shall have more data to work on. Our anxiety is to safeguard the reasonable interests of every kind of State.

Lord Reading : Would Mr. Sastri just allow me to ask a question? I want to get the matter perfectly clear. Am I right in this, that in the Chamber of Princes you have 108 what I might call Princes?

H.H. The Maharaja of Bikaner : Yes.

Lord Reading : Then you have a representation of 12 members who sit in the Chamber of Princes representing 127 of the next in order, but for the balance there is no representation at all in the Chamber of Princes; they have to depend upon the chiefs, bearing in mind their difficulties, and dealing with them, but they have no actual representation.

H.H. The Maharaja of Bikaner : That is right, and not to hurt their susceptibilities. No official decision, as far as we are concerned, has been brought about, but as you know, as Viceroy of India at the time when you were presiding frequently over the Chamber, apart from your having the State's portfolio, you called them ruling chiefs, and of course, when you got lower down I do not think you even applied the epithet " ruling " to them.

Lord Reading: Sometimes we even say " chieftains."

H.H. The Maharaja of Bikaner : Yes; but, as you know best of anybody here except ourselves, that is the position, and we found

possible to provide for a representation of all these social estates really were younger cadets of the various reigning houses who e given estates, and so on, and your ruling authority at the e said that they were independent States and took them away m the parent State and created these petty States There are inces, ruling chiefs and chieftains. I do not use those terms, at we want to do what we can for them all

Lord Reading: What it comes to is, whilst we are discussing this we are not taking any notice of those distinctions, but you claim the 50/50, and when you claim it the 50 is to represent the chiefs, the lower grades and so on, leaving it to you to determine the proportions.

H H. The Maharaja of Bikaner Yes, hoping that we shall be able to settle among ourselves, if necessary with the assistance of the Viceroy, or ultimately with the decision of the Viceroy, how that shall be done. It is the States with the 50 representatives

Mr. Sastri The analogy with the other Federations of the world may carry us too far, for if we go on the principle that there should be equality amongst the component units, then we do not divide the component units into two main classes and then say each class should have a parity of representation It is amongst the units that this equality is found to exist amongst the federations Well, if we adopted that principle we should have an enormous number represented in the States We cannot have each State on a footing of equality with every other State We cannot have every province of British India said to be on an equal footing Hyderabad, for instance, would not like to have the same representation as one of the small powers We could not carry that analogy very far

H.H. The Maharaja of Bikaner I think we shall be able to settle that among ourselves when the time comes

Mr. Sastri And parity is as between analogous units British India may be said to be a unit for certain purposes, because there are Central subjects—something of the kind—but the Indian States do not form a unit in that sense They do not federate, they onl join, each on its individual status

Sir Muhammad Shafi. Even as regards the Central subjec British India need not remain a unit It is not necessary that should remain a unit even for that purpose

Mr. Sastri. No. Therefore the analogy argument does seem to carry us very far.

H.H. The Maharaja of Bikaner: May I just say, then, if look at this map which we recently had printed in a great h we did not do it red and yellow, because it was difficult to done, you find the States shown there in red, and British shown in white. We do not ask you to trouble; we will so difficulties. There is the yellow and red in Lord Sankey' and we shall, I believe, quite satisfactorily solve it; but I cannot deny the fact that India consists of two great co who are federating. We do not want to go into

tion—because we get into other difficulties—as to how British India is going to federate; but on the one side, as I said at one of the earlier meetings, you have British India, and on the other hand you have these which in this map are shown red, and in the hands of Lord Sankey are the States shown as yellow, and these are the two great units who, within the Empire, are federating; and that is, for the reasons we have already mentioned, what we have got to take into consideration. I believe we shall be able to solve our problems. If we cannot, then we will own ourselves defeated; but those are the two units that are federating.

Mr. Sastri : I am afraid, Lord Chancellor, that I do not quite see how the Indian States form a unit for the purpose of our federation.

H.H. The Maharaja of Bikaner: Two Indias.

Mr. Sastri : Taking the United States of America, for instance, each State is a unit, and therefore claims equality of representation with any other unit. Now, if the Indian States and British India ought to have parity of representation, the States ought to be a unit entering the federation. The Indian States are not a unit, and as a matter of fact they are not coming in as a unit, they are coming in individually on separate terms, and certainly at different times. To speak of them as a unit for purposes of representation is to use words not in their ordinary sense at all. I should say, therefore, that the claim for parity of representation between British India on the one side and the Indian States on the other cannot be sustained. I think the better plan is to go by importance, or by area, or by population. I should suggest some intelligible standard of that kind.

H.H. The Maharaja of Bikaner : I think you will find that we shall all get landed into very serious difficulties if we do that, but I quite agree with my old and respected friend Mr. Sastri that on the terms of the ordinary federation this would not be, but, as I said again in my very first observations here, we have to solve our difficulties and to prepare a Federal scheme which has to deal with the States and British India, which I believe we are right in saying is without a parallel. You have the States possessing sovereignty. In British India, as a whole even, the sovereignty is vested in the Crown, and certain powers have been delegated to the Centre or the Provinces. When you look at the other units—I am not well acquainted with the history of them all—they were all practically on an equality as far as status was concerned, and I think really that as long as we recognise that the two great units federating—which I think is beyond dispute—are British India on the one side and the States on the other, that is really a matter which is not an incorrect statement of fact.

Mr. Sastri : Your Highness, that is exactly is in dispute. British India on the one hand and the Indian States on the other hand are not the units.

H.H The Maharaja of Bikaner : They are, except in this way. *When the States come in they are the States but you must remember* that the States have treaties and engagements with the Crown.

Mr. Sastri : But they have not all the same treaties.

H.H. The Maharaja of Bikaner · No, but they have some kind of treaty engagements, and they have some kind of sovereignty in varying degrees, and therefore they cannot be forced in except by entering individually through another treaty, or whatever you like to call it. Those are facts that you cannot get round You cannot force any State to go in unless it agrees to, and unless it makes a treaty with the Crown modifying, to that extent only, the treaties which exist. But when you have done that, and the States have come into the Federation, there will still be these two main units, British India and the States, however you do it We do not want to go into that, and I think if you leave it to us you will find it will be helpful to British India to the States and to the Empire. Let us solve our difficulties and come in

Sir Muhammad Shafi · If I may venture to say so, His Highness is thinking of the British India as it exists to-day, and is not visualising the British India which will come into existence after the federation is completed Then British India will not occupy the position that it is occupying to-day, and when the Indian States come into that federation the position of the British India of that period and the position of the Indian States of that period will not be very different.

H H. The Maharaja of Bikaner I do not want to say a single word about what your position will be, but the States have made it clear that they are not giving up their internal autonomy and sovereignty, and that they are remaining States subject to whatever the Federal body will share with them But there are, and will exist in British India (*a*) British India territory, and (*b*) non-British territory. That is the main point

Chairman . Mr. Sastri, would it be impertinent of me to ask you, if you think that 50/50 is not quite right, what sort of figures are in your mind?

Mr. Sastri · I should have a population standard, Sir; I prefer to adopt that standard

Chairman : Yes Now let us just follow that for a moment. The population of the States is 70 millions; the population of British India is 233 millions. Would it be your view, then, that it should be as 70 is to 233?

Mr. Sastri · More or less, yes. It is a little under one-third, I think.

Chairman : That is what I thought In that event, the States would have about 16

Lord Reading It is about three-quarters and one-fourth on that basis. It is 303 altogether, and you take roughly a fourth of it. 70 millions is slightly more.

Sir B. N. Mitra : It is 23 per cent.

Chairman : About one-fourth of the whole.

H.H. The Nawab of Bhopal : May I ask a question? Is this with regard to the Lower House?

Chairman : This is the Upper House.

H.H. The Nawab of Bhopal : I have only to point out that the population basis is unknown to any federation in the world. I do not see why we should be asked to do that when we are asked to federate. You may call it anything else, but it would not be federation.

Mr. Sastri : I would suggest a modification in the Upper House. Some weightage may be given to the States if the population standard gives a very unequal ratio, but in the case of the Lower House, without hearing more weighty reasons, I should not depart from the population ratio.

H.H. The Nawab of Bhopal : I was discussing the Upper House. I say that if you want us to federate with you, you must go on some principles which are known to the world. I am a layman, but I do not know of any federation in the world where representation in the Upper House is on a population basis, whereas many federations which exist to-day have representations in the Upper House on a basis of equality, and that is our claim.

Mr. Sastri : But that is inadmissible in this case. The component units cannot be admitted on a basis of equality. The Indian States themselves are not going to consider themselves one equal to another. That analogy is absolutely inadmissible. It only confuses the issue without adding a single element of clarity to the discussion of the question. If the population standard is inequitable in the case of the Upper House, and there are very weighty reasons in favour of that consideration, I should like to advance the representation of the States from 24 up to 33, which is one-third.

Chairman : Is that in the Upper House?

Mr. Sastri: That is in the Upper House. With regard to the Lower House, I would strictly confine myself to the population.

H.H. The Maharaja of Bikaner: I tried to sum up first of all the grounds apart from population and area upon which we considered that there are rights which we are entitled to ask for. Apart from population and area, I do not think that anyone can dispute four specific things with regard to the States: (*a*) their internal sovereignty, and their relations with the Crown; (*b*) their political importance; (*c*) their existence and influence (that is what the Simon Report also says); and (*d*) the Crown's obligation in regard to them. If you go on a population basis you will see what is going to happen. With all respect, we know more about the States than others here. There is a feudatory State which I think I am right in saying is not a member of the Chamber of Princes, Mayurbhanj, which has 900,000 population and an area of 4,000

square miles. Are you going to give Mayurbhanj, whose rights I [illegible] ulation t [illegible] ourse, y [illegible] of us involved in most frightful anomalies and difficulties. If you will leave it to us we will make a settlement amongst ourselves on a reasonable basis. If we cannot agree we can go to the arbitration of the Viceroy.

Mr. Sastri : I am sorry that I must ask for a little assistance in assessing the factors mentioned by His Highness the Maharaja of Bikaner. He mentioned the historic importance, he mentioned their connection with the Crown, and, amongst other things, I heard him say " their existence " I do not quite understand that.

H.H. The Maharaja of Bikaner : Do not we exist as States? We do exist, and you admit it. We are here because we exist. Are not we existing? The States are there.

Mr Sastri : In what we ask is there anything like consideration for non-existent things?

H H. The Maharaja of Bikaner We are there That is what I mean by the word " existence " You cannot ignore the fact that we are there. If you want us to come into the federation, and we want to help you, you have to remember our existence and our desire to exist.

Sir Mirza Ismail . Do you want to give the States any weightage at all in the Lower House?

Mr Sastri : None at all.

Sir Akbar Hydari : That would be on pure population?

Mr. Sastri : I should say so.

Sir Akbar Hydari : Supposing that there are 300 members in the Lower House, how many would you assign to the Indian States?

Mr. Sastri : According to my idea, the Lower House is going to be composed of popular representatives elected, practically speaking, on so many representatives for so many people. I should like the States also, if not to-day at some future date, to regulate their representation according to their population At present I realise that that method of representation is impossible, but I should like to prepare for it by providing now on that standard.

Sir Mirza Ismail : You would not give a third of the total number to the States, say 100 out of 300 members?

Mr. Sastri : My standard does not allow for that.

Sir Mirza Ismail : And in the Upper House you are prepared to give some.

Mr. Sastri : Yes.

Sir Mirza Ismail : What would be the percentage?

Mr. Sastri : I mentioned 24, and then I advanced to one-third.

Lord Reading : 24 to 33 per cent. The weightage is 9 per cent. on the basis that Mr. Sastri put forward.

Sir Tej Bahadur Sapru : I find it difficult to argue this matter upon analogies drawn from other countries because there is no parallel, to my mind, to be found to a federation such as we are contemplating. The instance of Germany, and particularly of Prussia has been frequently brought up here, but every one knows that there were special historical reasons for the supremacy of Prussia, and those historical reasons do not exist in the case of India, and I hope that they will never exist.

Mr. Gavin Jones : But we have historical reasons.

Sir Tej Bahadur Sapru : Pardon me, no. The question has been discussed by every one who has written upon Bismarck. I hope that we are not contemplating, as Mr. Gavin Jones said this morning, a federation of autocratic States. If that is what is being contemplated, frankly I tell Mr. Gavin Jones that he will not have a single Indian to look at it, nor do I think will the Indian States be prepared to join it.

Mr. Gavin Jones : The autocratic States are coming into the federation, that is what I meant.

Sir Tej Bahadur Sapru : Nor do I think that you will get much satisfaction out of those autocrats there who are willing to join a democratic institution. It may surprise Mr. Gavin Jones, but the fact is that the autocrats there are going to join a democratic institution. Therefore it is no use bringing up the case of Prussia time after time. Similarly, I do not find any analogy to that in any one of the British constitutions, such as the constitution of Canada, or the constitution of Australia. We must, therefore, treat this case on its own merits having regard to the very peculiar features of the federation which we are bringing into existence. Many factors have been mentioned both by Mr. Sastri and by His Highness the Maharaja of Bikaner, but speaking frankly I do not think that we could found this federation on any one of those factors taken by itself. If you proceed on the basis of population it seems to me that you may be doing injustice to a very big State while you may be trying to be very generous to a small State which has a very large population. Again, the words "historic connection" to my mind are very weird words. "Historic antecedents" are very weird words. There are States whose history goes back for centuries, but which are not really of any great importance at the present moment. There are States which are comparatively modern in their origin, but which have for historic and political reasons acquired a considerable amount of importance at the present moment. Nor to my mind would "area" be a sufficient answer. Therefore, in coming to this conclusion, I exclude from my mind all these factors. The question as I approach it to my mind is one of sheer political expediency and nothing more than that. If we are inviting the Indian States to come and join the federation, or if they want to join the federation themselves, then there is no

doubt that we are bringing into existence a political body w
laws will be as much binding upon British India as upon the Inc
States which will join that federation That to my mind is a v
important factor, and when one remembers that the Indian Sta
have hitherto refused to have any dealings with the Indian leg
lature, and they have run on their own lines, and they are nc
willing to come into the federation, although that federation ma
be of a limited character, I think that that is a factor which shoul
affect our minds a great deal in arriving at any conclusion
would also take into consideration, the possibilities of the develop-
ment of this federation in future Taking all these circumstances
into consideration, and not ignoring altogether some of the circum-
stances which have been mentioned by His Highness the Maharaja
of Bikaner, I personally have come to the conclusion that there is
a case for weightage in the Senate or the Upper House Instances
of that kind are to be found in other federations and I have met
hat. I know that federations have generally recognised the prin-
ple of weightage under certain circumstances Where those cir-
mstances exist the weightage has been given, and therefore, the
nple question to my mind is, what shall be that weightage?
re are two views before us at the present moment One view
at which has been put forward by Their Highnesses, namely,
there must be equal representation in the Senate The other
is that of Mr Sastri, namely, that they should be taken
beyond their numerical strength and brought up to 33 per cent.
Both these views rest upon the assumption that some weightage
is necessary His Highness the Maharaja of Bikaner would like
a weightage to the extent of 50 per cent ; Mr Sastri would like
a weightage to the extent of 33 per cent Personally speaking,
while I admit the principle of weightage, I do not accept the view
of either of them I would suggest that we made a start with a
distribution of the seats on the basis of 60 seats going to British
India and 40 seats going to the Indian States

I think that those considerations really do not apply to the
case of the Lower House The Lower House, so far as British
India is concerned, will be a popular House. Nobody can overlook
the fact that in that popular House will come an element from the
Indian States which cannot be treated as a popular element. The
representatives of the Indian States will, so far as I can foresee,
for some time at any rate, be the nominees of Indian States. It
may be that from some States representatives may eventually come
through the open door of election. That is a circumstance to my
mind which affects the whole question a great deal so far as the
Lower House is concerned Speaking frankly, I am very much
affected in my view by the difference that I propose to make so far
as the method of election is concerned between the Upper House and
the Lower House. I am mentioning this only incidentally. I
am in favour of indirect election so far as the Upper House is
concerned I would not do the same in the case of the Lower House,
, for that reason, and particularly because the representatives

of the Indian States will not come through the open door of election, I would not allow any weightage in the Lower House.

Sir Mirza Ismail : They may eventually.

Sir Tej Bahadur Sapru : When they do we may revise the whole thing, but until that time arrives I cannot forget that in the Lower House, which is a popular House, your representation will be not through the open door of election, but through nomination. Therefore I would say that we have to make a distinction between the two Houses. While I should be prepared to go up to 40 per cent. in the case of the Federal House, I should not be prepared to agree to any weightage in the case of the Lower House. That is my view.

Sir Akbar Hydari : In order to simplify the argument I will first deal with why, without any weightage, we are really entitled to 40/60 in the Lower House. Mr. Sastri wants the sole basis to be population, with a certain weightage as he calls it, but population is to be made the real basis of representation and distribution for the Lower House. On the other hand, what I should ask is that area should also be taken into account, even from the point of view of population, because in many cases it is the area which will be the reserve for the expansion of population. There are certain Indian States which have large measures of irrigation schemes which will probably lead to the immigration of large numbers from the surrounding British districts to the Indian States. I may mention a State like Bikaner and a State like Hyderabad. In any case, I consider that a Province of a territorial area which is very thickly populated at present should not be considered to be in exactly the same position as another area which is much larger and which has the same population as the first. Therefore I should say that certainly area should be given consideration as much as population. Taking merely population the percentage is 24—76; taking area into consideration it comes to 45 and 55. Between the two I submit that in the States asking for 40 and 60 they are asking for only what is fair without any weightage so far as the Lower House is concerned. It is 24 to 76 according to population, and it is 45 to 55 according to area. We ask for 40 to 60 upon something which is between the two. I remember that you, Sir, had worked out a proportion which was based upon the two, and that made it 33 to 66. But I feel that 40 to 60 is just as fair a way of giving effect to these two factors as merely population or area or a multiplication of the two. That is with regard to the Lower House, and I take 40 to 60 for that. It was admitted by Sir Tej Bahadur Sapru that for the Upper House a certain weightage should be allowed. That makes it come to 50/50, not upon the basis of any other consideration, but purely upon the respective conditions of these two areas.

H.H. The Maharaja of Bikaner: I should like to supplement that. I am not speaking in any unfriendly way, but I want to invite attention to the fact, supplementing Sir Akbar Hydari's

remarks, that the States, when they expressed their willingness to come into a federation, made it clear that they would not come into a federation in any position of subordination or inferiority to British India, but as co-equal and honourable partners. For that reason, if we go on population, or area, or a basis of that sort, I am afraid that you will find that the States will be reluctant to consider entering federation. I am talking of the Upper House. In regard to the Lower House, we realise that some distinction may have to be made, and we are prepared to consider that. We do not yet know what the powers of the two Houses will be. We are hoping that the Upper House will exercise a sort of restraining and sobering influence upon the extreme zeal and energy of the Lower House, and perhaps also (I am not competent to speak about this, and I should have left it to our learned friends here), a revisory power. It is because of that again that the States attach such importance to coming in on a 50/50 basis in the Upper House. I do not want to claim our coming in on a 50/50 basis on any such terms as our sole consideration. I want to point out that with Burma excluded the Indian States will be something like 42 per cent. of the area of them and British India. I am told that I have under-estimated it, and that the figure is 45 per cent. We are very modest in our claims

Lord Peel: I was not quite sure what Your Highness meant when you said that you contemplated the Second Chamber being only a revising Chamber.

H.H. The Maharaja of Bikaner: The Upper Chamber will, we hope, revise some of the things done by the Lower Chamber.

Lord Peel: I certainly hope that the Upper Chamber will have just as great powers as the Lower Chamber, and perhaps even a power of veto.

H.H. The Maharaja of Bikaner Exercise a restraining influence on some of the legislation and acts of the Lower Chamber, and revise some of its decisions

Lord Reading · One of their functions would be, as you put it, to check and restrain the ardour and enthusiasm of the Lower House, but you added also " and in addition the power of revising," by which I understood you to mean that if a Bill came up in not quite a satisfactory form, although you would not throw it out you would amend it, and revise it in that way.

H.H. The Maharaja of Bikaner: Yes We do not know what the powers are.

Sir C. P. Ramaswami Aiyar: I do not desire to enter into the question of the Upper House and the Lower House and their powers. I take it that some other occasion will arise for the discussion of that question, when some of us may express our views upon it. I am only now upon this question of the representation in the two Houses It must be remembered in this discussion what the functions of the two Houses are. They are operating in Fede-

ral subjects—subjects in which the Indian States have agreed to pool *their resources and to federate for common* purposes with British India. Therefore in regard to that range of subjects there is, I submit, with all respect, no point arising out of political importance or sovereignty. While sovereignty and political importance remain intact for all purposes in the federating units outside the range of the Federal subjects, when they come into the Federation, and to the extent to which they are in the Federation, they are functioning only as Federating units *pro tanto*. I submit, therefore, that these arguments, while they will undoubtedly operate to a certain extent in regard to the consideration to be shown to the Princes and our sense of obligation for their coming into the Federation, will not be determining factors.

The next point is as to the area theory of Sir Akbar Hydari. I think that would lead to extremely starting results if it were pushed to its logical conclusion. I do not desire, naturally, to say anything as between one State and another *inter se*, but the test of area applied to the Indian States *inter se* will lead to extremely startling results. For instance, one State possessing 4½ millions of population and nearly 30 million rupees income has got an area of 7,800 square miles. Another State having about one-third of that revenue has six times that area. It will be very difficult to judge of these things on that basis.

Sir Akbar Hydari: It is no more startling than Madras which has a population of 42½ millions having 18 seats, and Bombay which has a population of 19½ millions having 19 seats.

Sir C. P. Ramaswami Aiyar: The idea is that we are here to set those things right, and we are not going to perpetuate anomalies. The point I am on arises out of another remark of Sir Akbar's, about irrigation. That applies to the Indian Provinces as well. Bombay has made great strides in the matter of irrigation; and you might well argue that Sind, which has the largest irrigation project in India at present, should have more representation. Leaving all these really extraneous topics on one side, I support in the main the tentative conclusions at which Sir Tej Bahadur Sapru has arrived.

Lord Reading: I think what we have to bear in mind is that the whole matter which we are discussing is Federation, and that it does bring the Princes, for the first time, into a plan by which the rest of British India will have a voice. Hitherto British India has had nothing whatever to say with regard to the States. That has been dealt with by the Governor-General in Council, and mainly by the Viceroy who has held the portfolio. What we are now engaged in is trying to get the States to follow up the intentions which they have announced to us by coming in. The difficulty that I see for the States is that whilst they are giving up a portion of their internal sovereignty by agreeing that these matters of common concern should be dealt with in the Federal Legislature, and that they are therefore allowing British India by this scheme

to come in and deal with their matters as well as the States taking part in British India matters, I do see some force to some extent in the apprehensions of the Indian States, whatever their allocations may be amongst themselves (with which we are not concerned), that if they come in on a basis of sixty-six and two thirds against thirty-three and a third, which was suggested by Mr Sastri after he had added the weightage, or if they come in on the 40 per cent. [illegible] the Federal subjects which [illegible] ome into a plan of Federa- [illegible] s but in which they enter *from the first* moment as having the predominant authority, if you once get the division on those lines, of British India against them. I do think that we ought seriously to consider, when we want to set this federation scheme going, whether it is not really advisable, in order to give such inducement as we can to the States to come in, that in the Upper House we should allow them to be there on the same terms as regards themselves as British India will be in respect of the various Provinces We have to bear in mind the fact that there are a good many Indian States who are not even represented here, and we want to give them every inducement to come in so that we can get as many of the States as possible. I can well conceive that if it is put to an Indian State which has not taken part in these discussions, or which possibly has, they may say "Why should we come into a Federation in which we are going to give up our rights of sovereignty, and by which we absolutely subordinate ourselves to the views of British India whenever there is any question of controversy between us?" I do suggest to my friends of the British Indian Delegation that it is really worth while their considering whether on the whole it is not better as regards the Upper House to let them come in on the basis of 50-50 We are discussing the Upper House, and that is the main thing I wanted to say with regard to it I do hope we can find some way of accommodating their views on this, which I have understood were made clear from the start.

Sir Muhammad Shafi: That the Indian States are, in regard to their representation in the Upper House, entitled to a reasonable weightage, I entirely agree. As to what that weightage ought to be is a matter which, I venture to submit, should be decided upon its own merits irrespective of other considerations which have been advanced and which to my mind have no bearing upon this matter. Just to give an example. Their Highnesses have said that they are giving up to a certain extent their rights of sovereignty in order to come into this Federation. There is undoubtedly a certain amount of force in that statement, but I submit that that argument must not be carried too far. What I mean is this In so far as their internal sovereignty, or the autonomy of their States, is concerned, the question which we are at present considering has really no bearing on that. They come into the Federation for certain purposes; that is to say, control and administration of matters of common interest to the whole of India Matters of common

interest to the whole of India hardly touch the internal sovereignty or the internal autonomy of their States. What is exactly the position at present? Lord Reading seemed to think that in agreeing to come into the Federation for the purposes of administration in matters of common interest, they were surrendering their rights of sovereignty. I venture to think that that is hardly the case, having in mind what the actual existing position at present is. I too have had something to do with the administration of matters of common interest for something like 5½ years and I know as well as Their Highnesses know what power they at present have in the control of matters of common interest to the whole of India. I will not say anything further. Therefore I venture to submit that, while I am perfectly willing to allow weightage to the Indian States upon other grounds, this particular ground, to my mind, at any rate, as a result of my personal experience of the affairs of India both inside as well as outside, has strictly speaking no bearing upon the case. I venture to think that, so far as the area factor is concerned, although I am prepared to attach some importance to it, I cannot admit the correctness of Sir Akbar Hydari's argument to its fullest extent. The real criterion is undoubtedly population, but along with that we have to bear in mind the political importance of the Indian States, and that to my mind does entitle them to a measure of weightage in the Upper House.

Taking all matters into consideration, I do agree with my friend Sir Tej Bahadur Sapru that 60 and 40 is the right representation in the Upper House, and that that sufficiently provides for the weightage to which the Indian States are entitled.

Mr. Gavin Jones: On this question I am in agreement with one thing that Sir Tej Bahadur Sapru said, and that is that this question is one of political expediency. The Marquess of Reading has very clearly pointed out in what direction expediency is necessary. This is not a question, I think, that can be argued out on areas or population, or on any logical basis, it is merely a matter of what can be arranged, and I think that has been the principle with most federations. I certainly think that the Indian States should have weightage. That is a principle which cannot be logically argued out. It is only a matter of expediency, and what they ask—50/50 in the Upper House and 60/40 in the Lower—seems to me to be fair. But there is one thing that has not been mentioned—I do not know whether you want it to be discussed now—and that is the representation of the Crown.

Chairman: I am coming to that later on.

Mr. Gavin Jones: Then that is all I wish to say now.

Mr. Jinnah: I see the situation very clearly. I do not think really there is any room for argument on the merits. On the merits I would only like to say one word, and it is this. The Indian States have emphasised over and over again here that they are delegating part of their sovereignty in the scheme of this federa-

tion. Sir, may I ask them, is not British India delegating part of its sovereignty for the scheme of federation?

Mr. Gavin Jones: No.

Mr. Jinnah: It is not?

Sir Muhammad Shafi: It is.

Mr. Jinnah: Then what are you doing now? Will not the Indian States have a direct voice in the affairs of British India in the Federal Government? Is it not mutual? You may say very rightly indeed that at present your sovereignty rests in Whitehall, and your sovereignty rests in Bikaner or in Bhopal. But surely when federation is accomplished you will have a share in the affairs of British India by your voice, by your votes. Therefore I think this argument, which has been so repeatedly advanced, that you are making a sacrifice, you are surrendering part of your sovereignty, is misleading. So is British India surrendering part of her sovereignty. Surrendering to whom, delegating to whom? To the Federal Government which you will set up, in which you will be a party, in which you will have a voice and will have a vote. Therefore I think that that argument is a thoroughly misleading argument, to say that you are making sacrifices and that British India is making none As it is, Sir, I agree that this scheme, with which we have proceeded so far, is one of which there is no parallel, and I have always said so, and I reserve my opinion on the subject until I see the whole picture. But, Sir, I do not wish to put any difficulties in the way, and all I say is this. At present I cannot concede the argument that was advanced by Lord Reading. He said: "You must give whatever the Indian States require or suggest because that is the only way to get their consent." Well, Sir, [illegible] whatever the [illegible] eration, [illegible] nending to us, then I cannot argue; I have no answer. Then all I have to say is that—to beg of the Indian Princes and say, "Well, I accept whatever terms you extract from me, in order to get some sort of federation." Otherwise, Sir, it seems to me that we are handing over British India, with its population, wealth and great developments, to a body in which we shall have half the members belonging to the States and those members will be nominated by the [illegible]

That is a very serious proposition for me to [illegible] can say.

Chairman: Thank you very much. Now we have had an exchange of views about this matter, and at present the position is this—that the States want 50, and Sir Tej Bahadur Sapru and others have said only 40. I want to say just one or two things, and then to come on to the next

Mr. Sastri: My Lord Chancellor, I mentioned a figure of 33⅓; and notwithstanding all that I have heard from my own side, I still

remain unconverted; I still stick to that figure. Your Lordship will allow me to stick to my point.

Mr. Jinnah: As far as I am concerned, I shall commit myself to no figure at present.

Chairman: As I said—and the statement I made was correct—the position is this. The States wanted 50. Sir Tej Sapru and some others said 40. I know you said 33, Mr. Sastri. I would like to say this. There seems to be some fear—I will speak quite frankly—of a princely bloc. Now, I do not want you to go back to India with any such sort of thing in your minds. After all—forgive me for saying so—India is your native country. You are far more interested in its welfare from that point of view that we can possibly be, and on these Federal subjects I give you the credit, every one of you, whatever happens, for trying to do your best for India, and not for the British Indians to do their best for British India or the States to do their best for the States. I venture to suggest that apart from that point of view, which may be discredited now as sentimental, although sentiment still counts for something, you may have an entirely different orientation when you have a Federal India dealing with Federal subjects. The orientation then may not be between the yellow States and the red areas on the map; it may be a different orientation of the interests of Southern India against Northern India; a different orientation of Maritime States against other States; but one thing I am quite sure of is this that you will be all there to do the best you can for India.

Now the Crown. I rather gather from the opinion that has been expressed that the feeling was this: (1) that if and as long as there are the reserved subjects there must be some representatives of the Crown there. I rather gathered that they ought to be in addition to the 100 or 200, whatever the number is that you fix upon for yourselves. There are only two matters we have to discuss—the sort of percentage; I need not trouble you with that at the present moment; take it from me I only speak for myself, of course; I do not want to have the Crown in a position in which it will be able to vote you all down; that is ridiculous; nobody wants that; but I do want a little help upon that. Whether it is 5 per cent. to the Crown or 10 per cent. we need not trouble for the moment. Figures will not trouble us any more than they trouble you; but I do want a few words, if you would kindly help us, on that—as to whether the Crown people should be there for discussion and information or for voting. Let me tell you quite frankly my opinion, because it is no use asking for your confidence if I do not give you mine. I think they ought to be there for all purposes. It is a matter, of course, for discussion.

Mr. Jinnah: I shall have no hesitation in telling you at once my opinion. I can visualise the position. My experience tells me to-day that it will be the greatest mistake to give those few men voting powers.

The Crown subjects which would be reserved, I take it, would be very few. That is how I take it. Now, you will have a ma[illegible]

in charge of that Department. I have no objection whatsoever—not only have I no objection but I insist that he should be present in the Legislature when that question arises. He will have the full right of audience; that is to say, he can take part in the debate, put forward all the arguments in support of his policy or what he is doing or what he is about to do. That will be debated and discussed Now I ask you, supposing you have got a Military Department, we will say; a question has arisen, and that question will be debated in the Legislature So far as the ultimate responsibility is concerned, it is not vested in the Legislature; it is a Crown subject; that is to say, the decision of the Legislature is merely either a recommendation or advice, because the responsibility rests with the Crown Now if that is so, what is the use of the member in charge of this Department voting in favour of his own policy, and will he ever succeed if the House is of the contrary opinion? It will be carried in any case What useful purpose will it serve? On the contrary you will put him in a very difficult position. You put a certain amount of temptation in his way which might lead to a great deal of friction and bitterness in the Legislature.

Lord Peel. May I ask one question upon what has just been said? It does not immediately arise upon this particular point, but it is concerned with the general picture The corollary of your statement would be that the reserved subjects ministers would not be members of the Cabinet

Mr. Jinnah: Yes

Lord Peel· I was asking purely for information I was not suggesting an opinion. You would keep them quite separate from both the Legislative and the Executive.

Mr. Jinnah: Yes, certainly.

Sir Tej Bahadur Sapru: Sir, I view this question from a somewhat different angle. First of all I should like to know what it is exactly that is meant by the representatives of the Crown subjects. If by "the representatives of the Crown subjects" you mean certain official ministers (never mind whether their number is two or three) who shall be in charge of the administration of those subjects, then I do not think that, consistently with our idea of a community of policy and a unity of an executive, we can keep them out from the right to vote, but while I am prepared to make no distinction between ministers of one kind and ministers of another kind, I would not allow anything like the present official bloc to continue.

Chairman: No more would I.

Sir Tej Bahadur Sapru. For instance, let us assume that you have an executive in the Viceroy's Council consisting of seven men, five of whom are in charge of subjects which have been thrown open to the Legislature in regard to everything, and two of whom are in charge of what you have been pleased to classify as Crown subjects, I should expect all these seven men to work as

a unified executive, taking responsibility for joint decisions, and I should expect them to come before the Legislature and to defend their policy. I should not like to have ministers of Class A and Class B.

Chairman: That is my view.

Sir Tej Bahadur Sapru: It will undoubtedly be anomalous that two of the ministers should not be answerable to the Legislature, but that anomaly is to my mind inevitable in the period of transition. If, in addition to these two ministers, who will be administering those subjecs, you want to have five, six or seven other officials on the present model, such as secretaries or deputy secretaries, or other nominees of the Governor-General, coming into the Legislature and giving votes one way or the other, then I would very strongly dissent from that. My reasons for that would be that experience has shown that a good deal of the feeling which has arisen in the Legislature against the Government is due to that official bloc. Every one who has been either inside the Government or inside the Legislature knows that the officials vote to order, although I have known many instances in which the officials if left free would have voted with the popular side of the House. It is a most demoralising process. It puts the Government in an odious position. It puts the officials themselves in a much more odious position. Therefore, if by the representatives of the Crown you mean ministers sitting in the Cabinet of the Viceroy, then I would make no distinction between one class and another, but I would not go one step further than the ministers.

Mr. Jinnah: If we have a minister in charge of defence, for instance, if he is a member of the Cabinet for all purposes, and if that Cabinet is going to be a unified Cabinet, defence is a thing for which the Legislature will not be responsible, but the responsibility is vested in somebody else, the Governor-General or whoever it may be, this minister in charge of defence is responsible to the Governor-General, and not to the Legislature. If he is a member of the Cabinet and he is in that Cabinet, but he does not yield to the rest of his colleagues on a particular question of policy, do you expect them, although the rest of the members of the Cabinet do not agree with him, to come before the Legislature and to defend the policy from which they differ? Supposing that the House is not satisfied with that Cabinet, do you expect that the rest of your Cabinet, who defend the policy with which they do not agree, should be turned out because with regard to a certain matter they have to follow a policy for which the Legislature is not responsible? Somebody else is responsible. Will that Cabinet of yours last very long? Would you not be putting the otner members of the Cabinet in a most difficult position *vis-à-vis* the House? Therefore, it seems to me that if you have a minister in charge of a reserved Department he is not responsible to the Legislature but he is responsible to somebody else. It seems to me that the Legislature can discuss that policy independently of what the decision of that minister, or of the Governor-General,

and express their opinion, but upon that you do not want to stake the life of your Government and your Executive.

Chairman: No. I quite see your point. Let us for a moment leave the question of voting Are you against their being there at all?

Mr. Jinnah: I want them That is exactly what is happening now in regard to some matters.

Chairman: I know that. Might I cross-examine you a little? Could you kindly give me an idea upon this first point what is in your mind, assuming that they are not voting, with regard to the number?

Mr. Jinnah: I say that there should be nobody except the Member in charge of the Department.

Chairman: I follow what you say What you say is that the man who ought to know all about it (I am not talking in any way in derogation of anybody) ought to be there to explain, and so on, but only for the purpose of explaining, and not for voting, and nobody else.

Mr. Jinnah: For the purpose of explaining, for the purpose of taking part in the debate, and for the purpose of defending his policy in front of the Legislature. He plays his part in the same way as any other minister would, but he does not vote because he is not responsible to the Legislature, and whatever decision the Legislature may come to, cannot be carried against the will of the minister, or of the Governor-General to whom he is responsible.

Chairman: I follow [illegible] for it. It is a very weighty [illegible] by Sir Tej Bahadur Sapru [illegible] ould have the right to vote. I understand that you are against that?

Mr Jinnah. I am against that

Mr. Sastri: The consideration of how many should be nominated, upon which both Sir Tej Bahadur Sapru and my friend, Mr. Jinnah, have spoken, leaves out of account the fact that there are two Legislatures which may be sitting together. If the ministers who conduct the affairs of defence and foreign policy be appointed to one Legislature, then what is to become of the other House which may be discussing the matter?

Mr. Jinnah: May I interrupt? That is exactly what is happening to-day. Sir Basil Blackett, or Sir George Schuster, who is now the Finance Member, is a member of the Lower House and not of the Upper House.

Mr. Sastri: But his secretary is

Mr. Jinnah: Yes. Similarly, the secretary is a member of the Upper House now, but he is not a member of the Lower House. When any matter is being discussed by either House, it is so arranged that one or the other goes to the Upper House. Further, I quite agree, and I am not objecting to it if it is in the mind of

Mr. Sastri, that supposing that you want to keep a minister in one House and his secretary in the other House, that is merely a matter of convenience, and I would not object to it.

Mr. Sastri: With regard to the other point, I think that there is a very practical difficulty, as well as a violation of principle, in allowing, say, the minister of defence, who is responsible only to the Viceroy, the power of voting in the House to which he may be nominated. If that is done, he will have to share the collective responsibility of the ministry, he being responsible to the Viceroy alone. He cannot for any reason be asked to resign office when a vote of censure is passed on the Cabinet, for he has had no share in shaping the policy upon which the ministry may be censured. When a question concerning defence was discussed in the House, it would be a matter of very great difficulty for the members of the Cabinet to vote in this way or in that way. They cannot share the responsibility which the minister of defence has under the Viceroy, and he cannot share other people's responsibility. It seems to me to be odd to ask a person of that kind to become a member of a Cabinet with collective responsibility, to go out of office with them, and to take office with them. With this policy of reserving certain subjects in the hands of the Crown there seems to be no alternative but to appoint the ministers and their secretaries each to one House, and give them the power of discussion only.

Lord Reading: May I make a suggestion for the consideration of this Committee? This discussion has been very interesting, and of the utmost importance. It seems to me to be difficult to come to anything like even a provisional conclusion until we know rather more of what is going to happen. We have been discussing some matters which are not strictly germane to the subject. Obviously they have a bearing but they are not the subject, as, for example, the position of ministers in the Executive who are responsible for defence. What I am going to suggest is that, without going into the discussion upon that at the moment, we should defer this question of the representation of the Crown until we have considered the subsequent question of the Executive, and see a little more clearly where we are as regards the reserved subjects and what the position is to be. I should like to make that suggestion for the consideration of the Committee. I would remind the Commitee that there is a question involved in it, which I have no doubt that many of them have thought about, as certainly we have, of what the position of the Viceroy is to be with regard to the new Cabinet which will be set up, and which will have, on the assumption which is now being made in the discussion, responsibility of the new Legislature. It is very difficult to discuss this without taking into account all these various considerations. When we once know what it is that at any rate is being concluded provisionally (some of us may not agree) with regard to the position of ministers responsible for defence under the Viceroy, and of foreign affairs, and so forth, a subject which wants very careful consideration, we shall be in a better position to express our views

with regard to the Crown representatives. I suggest, therefore, that we should defer the discussion upon this until we have decided the other points Once we have come to the provisional conclusions as to the position of the Viceroy, the various safeguards, and so forth, we really would be in a better position. It may be that we shall not agree, but we shall be speaking with knowledge at any rate of what our views are upon these other questions, because I can see some very difficult questions raised What Mr. Sastri has been saying, and what Sir Tej Bahadur Sapru and Mr. Jinnah have been saying, raise constitutional questions of very great importance.

Mr. Sastri: I wish to apologise for having anticipated the verdict of this House in respect of the responsibility of the Executive. We on this side are so obsessed with this question of responsibility that we took for granted what is still under discussion.

Mr. Jinnah: I gather that the Conference will not break up on giving a vote to two or three Crown representatives or not

Chairman: Thank you very much.

Sir Tej Bahadur Sapru: May I say one word by way of explanation? I recognise the anomaly of the position that I put forward, but as the whole thing is anomalous I do not mind facing the anomaly that the official minister, who I propose is to enjoy the right of voting, should also fall with the rest of the ministry. That is the underlying basis of my definition If you read the Despatch of the Government of India you will see that that is the underlying basis there also.

Sir Akbar Hydari · I take it that the further discussion is reserved?

Chairman · Ceraınly.

Sir Muhammad Shafi · While I agree with the course proposed by Lord Reading, I would like members of the Committee to bear one thing in mind while they are thinking over this problem I can well understand joint responsibility of all the members of the Viceroy's Executive Council to the Secretary of State under the existing state of things. I can also understand joint responsibility of the Cabinet to the Legislature if all these subjects were transferred, but I cannot understand joint responsibility of a Cabinet consisting of members in charge of subjects transferred, in relation to their responsibilities to the Legislative Council, and members in charge of two or three reserved subjects in relation to which their responsibility is to the Viceroy.

Chairman: There are two matters which we have left of which I will remind you. I will mention them, and perhaps you might be kind enough to think them over. You will recollect that I ventured to put before you simply for the purpose of discussion whether, in addition to some general seats, or out of some general seats, there should be carved some special seats for certain interests. I simply gave you some names The names that I had on my list were: Labour, Depressed Classes, European Commerce, Anglo-

Indians, Landlords, and Indian Christians. Then Indian Commerce was added.

Mr. Gavin Jones: And the European general constituencies.

Sardar Ujjal Singh: The military people have got representation now.

Chairman: We will consider that. You can raise that.

Will you please think about particular things under No. 5, the method whereby representatives from British India and from the Indian States are to be chosen. With regard to the method it divides itself into two things: the method for the Senate, and the method for the Legislative Assembly direct or indirect. That is how it is put.

(*The sub-Committee adjourned at 4-20 p.m.*)

PROCEEDINGS OF THE TWELFTH MEETING OF SUB-COMMITTEE NO. 1 (FEDERAL STRUCTURE) HELD ON WEDNESDAY, 31ST DECEMBER, 1930, AT 2-30 P.M.

Chairman: Your Highnesses and Gentlemen, when we finished on Monday there were two questions left over from (4) and (5). (5) was left over altogether, and with regard to (4), which reads: "The number of Members composing the Federal Legislature, and, if the Legislature is of more than one Chamber, of each Chamber, and their distribution among the Federating units," the question that we left open then, or rather, had not discussed then, was whether there should be any special seats; and you recollect that certain gentlemen made suggestions, about which I think we might just interchange views.

I do not want personally to say much about it. If the number of members of the Upper House is to be 100, there or thereabouts, it is obvious that it does not leave very many seats. Assuming for the sake of argument, and only for the sake of argument, what the Princes say, you remember they said they wanted fifty-fifty; then Sir Tej Bahadur Sapru said forty-sixty, and my friend Mr. Sastri here thought that on one area or one method of calculation there would be only about 25 per cent., though I think he said he was willing to go up to 33 per cent. All that I want to remind you about it is this, that it is a small assembly, quite rightly a small assembly, and therefore every special seat that you think ought to be created diminishes to some extent the rather small number. But I should like to have your opinions. The subjects were: Labour, depressed classes, European commerce, general commerce, Indian commerce, Indian Christians, the military class, landlords and Anglo-Indians. Mr. Sastri, what do you think on this? What is your view with regard to special seats, and, if so, what sort of communities ought to be represented?

Mr. Sastri: Personally, Sir, I think that if these classes and interests should have representation, it would be much more

appropriate in the Upper than in the Lower House. I do not say that there should not be representation of these in the Lower House, but it seems to me much more appropriate that they should be in the Upper House. And, while I am not prepared to say how many or what percentage should be assigned to each, I cannot bring myself to exclude any one of them; they all seem to me to deserve representation.

Sir Tej Bahadur Sapru: I am more or less of the same opinion as Mr Sastri. I certainly want to give every possible protection to the depressed classes, and I certainly think that European commerce and Indian commerce also deserve representation. Similarly, I think the landlords, the Anglo-Indians and the Indian Christians do. But I am not able to understand what exactly is meant by the military class, because I am one of those men who think that the whole policy of the Government of India and of the Government here in developing what is called a military class has been absolutely wrong and injurious to the country. Formerly there was a time when everybody, practically speaking, could go into the Army; but merely because a certain class of people have gone into the Army, whether they are Hindus, Muhammadans, Christians, or Sikhs, I do not think that that class deserves special representation in the Upper House. I am not aware of any constitution where the military class, as a class, have got representation in the Upper House. There are certain constitutions in Europe where it is provided that retired Generals and men who have rendered distinguished service in the Army may be nominated to represent special points of view; but that is entirely different I have an open mind on that question, if I know what exactly is meant by this fluid expression, then I shall be able to express my opinion.

Now as regards the method of representation, you will be pleased to remember that the trend of opinion was more or less that there should be indirect representation in the Upper House, but how that will be worked out has not yet been discussed, and in a matter of this character I should like to know what exactly the views of the representatives of the depressed classes, or the representatives of European commerce, or Indian commerce, or landlords, are I would not oppose their representation in the Upper House. That is all I wish to say.

Chairman: Thank you very much. Perhaps you would tell us your view of the military class, Sardar Ujjal Singh.

Sardar Ujjal Singh: Sir, my point of view was this, that at present there is a representation to safeguard the interests of the military people; that constituency is to represent the military interests and military classes. In the local council, too, in the Punjab, and in the Central Legislature as well, the military interests are represented by one man, either from the Hindus, or the Muslims, or the Sikhs; I do not say it ought to be from one community, but simply to represent the military interests. I think that in that way those interests require to be represented as much

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Mr. Sastri: Personally, Sir, I think that if these classes and interests should have representation, it would be much more

appropriate in the Upper than in the Lower House. I do not say that there should not be representation of these in the Lower House, but it seems to me much more appropriate that they should be in the Upper House. And, while I am not prepared to say how many or what percentage should be assigned to each, I cannot bring myself to exclude any one of them; they all seem to me to deserve representation.

Sir Tej Bahadur Sapru: I am more or less of the same opinion as Mr. Sastri. I certainly want to give every possible protection to the depressed classes, and I certainly think that European commerce and Indian commerce also deserve representation. Similarly, I think the landlords, the Anglo-Indians and the Indian Christians do But I am not able to understand what exactly is meant by the military class, because I am one of those men who think that the whole policy of the Government of India and of the Government here in developing what is called a military class has been absolutely wrong and injurious to the country. Formerly there was a time when everybody, practically speaking, could go into the Army; but merely because a certain class of people have gone into the Army, whether they are Hindus, Muhammadans, Christians, or Sikhs, I do not think that that class deserves special representation in the Upper House. I am not aware of any constitution where the military class, as a class, have got representation in the Upper House. There are certain constitutions in Europe where it is provided that retired Generals and men who have rendered distinguished service in the Army may be nominated to represent special points of view; but that is entirely different. I have an open mind on that question; if I know what exactly is meant by this fluid expression, then I shall be able to express my opinion.

Now as regards the method of representation, you will be pleased to remember that the trend of opinion was more or less that there should be indirect representation in the Upper House, but how that will be worked out has not yet been discussed, and in a matter of this character I should like to know what exactly the views of the representatives of the depressed classes, or the representatives of European commerce, or Indian commerce, or landlords, are. I would not oppose their representation in the Upper House. That is all I wish to say.

Chairman · Thank you very much. Perhaps you would tell us your view of the military class, Sardar Ujjal Singh.

Sardar Ujjal Singh · Sir, my point of view was this, that at present there is a representation to safeguard the interests of the military people, that constituency is to represent the military interests and military classes. In the local council, too, in the Punjab, and in the Central Legislature as well, the military interests are represented by one man, either from the Hindus, or the Muslims, or the Sikhs; I do not say it ought to be from one community, but simply to represent the military interests. I think that in that way those interests require to be represented as much

Indians, Landlords, and Indian Christians. Then Indian Commerce was added.

Mr. Gavin Jones: And the European general constituencies.

Sardar Ujjal Singh: The military people have got representation now.

Chairman: We will consider that. You can raise that.

Will you please think about particular things under No. 5, the method whereby representatives from British India and from the Indian States are to be chosen. With regard to the method it divides itself into two things: the method for the Senate, and the method for the Legislative Assembly direct or indirect. That is how it is put.

(The sub-Committee adjourned at 4-20 p.m.)

PROCEEDINGS OF THE TWELFTH MEETING OF SUB-COMMITTEE NO. I (FEDERAL STRUCTURE) HELD ON WEDNESDAY, 31ST DECEMBER, 1930, AT 2-30 P.M.

Chairman: Your Highnesses and Gentlemen, when we finished on Monday there were two questions left over from (4) and (5). (5) was left over altogether, and with regard to (4), which reads: "The number of Members composing the Federal Legislature, and, if the Legislature is of more than one Chamber, of each Chamber, and their distribution among the Federating units," the question that we left open then, or rather, had not discussed then, was whether there should be any special seats; and you recollect that certain gentlemen made suggestions, about which I think we might just interchange views.

I do not want personally to say much about it. If the number of members of the Upper House is to be 100, there or thereabouts, it is obvious that it does not leave very many seats. Assuming for the sake of argument, and only for the sake of argument, what the Princes say, you remember they said they wanted fifty-fifty; then Sir Tej Bahadur Sapru said forty-sixty, and my friend Mr. Sastri here thought that on one area or one method of calculation there would be only about 25 per cent., though I think he said he was willing to go up to 33 per cent. All that I want to remind you about it is this, that it is a small assembly, quite rightly a small assembly, and therefore every special seat that you think ought to be created diminishes to some extent the rather small number. But I should like to have your opinions. The subjects were: Labour, depressed classes, European commerce, general commerce, Indian commerce, Indian Christians, the military class, landlords and Anglo-Indians. Mr. Sastri, what do you think on this? What is your view with regard to special seats, and, if so, what sort of communities ought to be represented?

Mr. Sastri: Personally, Sir, I think that if these classes and interests should have representation, it would be much more

appropriate in the Upper than in the Lower House. I do not say that there should not be representation of these in the Lower House, but it seems to me much more appropriate that they should be in the Upper House. And, while I am not prepared to say how many or what percentage should be assigned to each, I cannot bring myself to exclude any one of them; they all seem to me to deserve representation.

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as the landlords or other interests, or commercial interests. That was only my point of view, Sir. With regard to other special representation, I have absolutely no objection. I think those interests do require to be represented, and in the best manner possible. It may be in some cases by election, and in some cases by nomination.

Sir Tej Bahadur Sapru: May I know on what ground you can make a distinction between the military class and, say, the civil servants of the country, who are as necessary in the interests of the country as the military class? The military class is merely a profession, and their interests are the same as the interests of every one else. I therefore do not see any reason why we should make a concession in this case.

Diwan Bahadur Mudaliyar: I regret I am not able to see eye to eye with my friends, the Rt. Hon. Mr. Sastri and Sir Tej Bahadur Sapru with reference to the need of the representation of these classes in the Upper House. I should have thought that if they have to be represented they would more naturally come in the Lower House than in the Upper House, considering the functions of the Upper House; it is not a place where merely points of view will have to be elaborated; much more important decisions will have to be taken; it will be a sort of revising Chamber, without attributing to that phrase the characteristics of the House of Lords here. I should have thought there would be no place, particularly in a small House, as we are contemplating it to be, for the representation of all these classes. It would be much better to have all these classes represented in the Lower House. In any case, Sir, I see that some of these classes are bound to be represented in fairly large numbers in the Lower House. Take the depressed classes, for instance; they are going to put in a claim for a fairly good representation in the Lower House, and there is no point in saying that they ought to be in the Upper House also, when you consider that the Central Legislature consists of both the Houses, and ought to be considered as one Legislature with two Chambers.

Secondly, I understood that most of us were agreed that, so far as the Upper House was concerned, a sort of indirect election will have to be introduced. If the plan of the Simon Commission is adopted, the indirect election will be election by the Provincial Councils; and if, further, the method of proportional representation, which I understand is now finding acceptance in this country to a certain extent, is also to be adopted, then I can conceive how easy it will be, at any rate how probable it will be, that many of these classes will come in automatically in the Upper House. If proportional representation is to be adopted, and if Provincial Legislatures are to send a certain proportion of members to the Upper House, naturally the depressed class man will find a seat; naturally landlords will find a seat; Indian Christians will find a seat—from Madras at any rate, because they are going to have a fairly good representation in the Provincial Legislature. So that in effect these classes will come into the Upper House; but whether

they come in in that way, or whether they do not come in in t[he] way, I feel, Sir, that the Upper House is not the place, with su[ch] a small number of seats as we are going to have, where we ca[n] get in all these classes. I go further and venture to say it is n[ot] necessary, either for the protection of those classes, or in any othe[r] way advantageous to the constitution as such I think it is muc[h] more important that they should be in the Lower House; it is muc[h] more easy to get them in the Lower House, seeing that it is going to be an enlarged Chamber.

With regard to what has been said as to the representation of the military class, coming from Madras, and as a Madrasi myself, I feel the humiliation of being classified in the non-military classes If you will read the report of the Provincial Government on the Simon Commission, you will find a paragraph there, where, under the guidance of a Governor who himself has military traditions behind him, a very strong protest has been made by the Madras Government against the exclusion of Madrasis from military service The Madrasis have been in times past amongst the finest of military men, and the new policy during the last thirty years has been to their serious detriment. That is what is said, and it is advocated that the old Madras Regiments should be revived, Regiments which played their part very notably in their time, as will be seen if the early part of the history of British India be read once more That is all I have to say about the military classes, but I do think we ought not to have representation of all these classes in the Upper House.

Sir Samuel Hoare Is there any special representation of the military classes in the Second Chamber now?

Several Members · Not now

Sardar Ujjal Singh · In the Assembly they have a representative

Diwan Bahadur Mudaliyar One gentleman has been nominated for the last few years in the Lower House, the Assembly

Sir Samuel Hoare · Nominated on the discretion of the Viceroy, not under Statute?

Sardar Ujjal Singh: No

Diwan Bahadur Mudaliyar He happens to be a military member.

Sir Tej Bahadur Sapru There is no statutory provision for the representation of the military class.

Chairman: I quite follow your argument, Mr Mudaliyar, that here should not be this representation in the Upper House, but you do not say that with regard to the Lower House?

Diwan Bahadur Mudaliyar. With regard to the Lower House the position is entirely different. I know the Depressed Classes have put in a claim for direct representation in the Lower House either by separate electorates or whatever it may be, and similarly Labour have put in a claim for direct representation, and the Anglo-Indians and Indian Christians have put in claims They are at

present nominated, but they put in a claim for election. All these other communities have a right to come in by direct nomination or special election recognised by statutory rules, and therefore it will not be changing the system in any serious way if you continue that, only substituting the method of election in some form or another for the method of nomination, which has automatically to disappear under the new conditions.

Sir B. N. Mitra: I find myself in agreement with the views expressed by Diwan Bahadur Mudaliyar. In the present Upper House there is no provision for these special seats. The Governor-General nominates a certain number of non-officials, but he nominates them with reference to their general qualifications; in fact, the Upper House is expected, in theory at least, to consist of people occupying a higher position in society than the members of the Lower House. If you are going to pursue the idea of Federation in the Upper House, it follows that so far as British India is concerned the different units of the Federation should have the same number of seats. I am not sure I agree about indirect election. I know Diwan Bahadur Mudaliyar supports it, but, reading through the reports of the Government of India and the Provincial Governments, I do not find much support there.

It is possible that Their Highnesses may desire that in a Federal Assembly the Upper House should consist of people brought there by means of indirect election, but I fail to understand what the advantages of that will be, because indirect election will give much smaller scope for the entry into that House of people of the calibre of which that House is supposed to consist than will the method of direct election now in force.

In the Upper House at present, as I said, there are no special seats. The Simon Commission wanted to arrange the number of seats on the Provincial basis, giving practically the same number to each Province, and they provided for six special seats, three for European commerce and three for Indian commerce, and—I think as a counterpoise—they suggested there might be some representation for Labour, but they did not make any specific recommendation in that regard. But, if we are to base our suggestions on the fundamental principle that each unit in British India which enters the Federation should have the same number of seats in the Upper House, then it will be impossible to dovetail into that any provision for special seats for particular classes.

Chairman: There is only one other question which I want to ask. I am not expressing an opinion; I am merely asking a question. Let us suppose for the sake of example—and only for the sake of example—that we were to fix, let us say, 100 as the number of members for the Upper House, the Senate, and let us suppose we were to come to the conclusion—I do not say we shall for a moment, after what has been said; I am only supposing it—that it would be wise to have three or four or five special seats. Would it be best to take them out of the 100 or to add them to the 100? I think Sir Muhammad Shafi rather suggested that any nominated

members would be added to the 100, and of course that is rather simpler, because you have the figure of 100 to work on, and it is easier to say, if you are going to have someone to represent Labour, that he shall come on as an additional man. I do not ask you to express a definite opinion, but I just throw that out as a point to be considered.

Sir Tej Bahadur Sapru: I agree with Sir Muhammad Shafi there, that it is easier to work on the basis of 100 and to add special representatives if we are going to have the representation of special interests.

Sir Muhammad Shafi: The difficulty with regard to these additional seats will lie in this, that if we decide upon indirect election as the method of representation in the Upper House, how are you going to settle the method of representation in regard to these additional seats?

Chairman: I am very much obliged to you, Sir Muhammad Shafi, because that is a question that is presenting itself to my mind, and we shall have to deal with it when we get to No. 5, the method of representation; but you have put your finger on a real difficulty.

Sir Muhammad Shafi: Otherwise I think these seats ought to be additional to the 100.

Lord Peel: Would it be possible, if you are going to have these extra seats, to give freedom to the Viceroy to nominate so many? Perhaps you might lay down the classes from which they should be selected, and then the Viceroy would see whether these particular classes were or were not represented by the method of election, and if there were gaps he might fill them up It might be useful to give these different classes a feeling that they had a share in the Upper House.

Sir Muhammad Shafi: Lord Peel, you mean if they do not come in by the door of election?

Lord Peel: That is it.

Sir Muhammad Shafi: And if there is need to secure representation of any one of these particular classes, you suggest that should be done through nomination by the Viceroy: Is that your idea?

Lord Peel: Yes, but you should not lay it down definitely that the Viceroy [illegible] to represent some specific class [illegible] liberty, because they might [illegible]

Sir C. P. Ramaswami Aiyar: The difficulty with regard to nomination even at present is very great. I speak with some experience of Provincial Councils and of the Central Legislature, and I can say that the position of the nominated member is one of extreme embarrassment. He is unable to make his influence felt in any manner; he finds he has no following; what he says is not given the weight which would otherwise be attached to it. All this is on the ground that he is a nominated member, and

the awkwardness is felt by him, by the nominating authority itself and the House generally. I have been a nominated member and an elected member, and I know exacly what the position is.

In the Assemblies you are contemplating hereafter it would not be advisable, except on the clearest possible grounds, to have nominated members; it would be well to utilise election as far as possible. There are many round this table who have been nominated members, and I feel sure they will concur in that view.

Sir Tej Bahadur Sapru: Confining myself to the Upper House —though I would say the same with regard to the Lower House —I am definitely opposed to any nominations made by the Viceroy from among non-officials. I can understand him nominating one, two or three officials to represent the Crown subjects in the Legislature, but if it is a question of securing the representation of any one of these other interests I would rather explore other avenues with a view to securing their representation rather than give the power to the Viceroy to nominate them.

At present that power has been used, with the result that, generally speaking, as Sir C. P. Ramaswami Aiyar has just indicated, the nominated members have never exercised any appreciable influence, and the feeling is that the nominated members are there as a sort of counterpoise against the elected members. I do not want that feeling to continue either in regard to the Upper House or in regard to the Lower House. The position will be worse if you have anything like responsibility at the Centre, because I presume in that case these men will be nominated upon the advice of the Ministers, and it will lead to very grave party complications. Such nominations have led to party complications in other parts of the world; for instance, the nomination of the Senate in Canada has been very severely criticised by learned writers. I am not very happy about the idea that there should be nomination, either on the advice of the Ministers or without the advice of the Ministers.

Sir Samuel Hoare: I find myself in some difficulty on this question; it seems to me to depend so much on what the minorities themselves wish. My view would be entirely guided by that. One wishes to see them represented in some way. I dare say what Sir Tej Bahadur Sapru and Sir C. P. Ramaswami Aiyar say about the position of nominated members in India is accurate; I feel sure it is. I do not think, however, that that is our experience here, at any rate on the bodies on which I have served. I have served on bodies containing nominated and elected members, and there has been no distinction between them; but I accept what they say as to the position being different in India.

If that is so, I should like very much to know what these minorities themselves wish, and at present I am in some doubt about that. My view, as I say, would quite definitely be guided by their wishes. I do not in the least contemplate a large number of nominated members who would be at the beck and call of the Government of the day, but I do wish to see minorities which would otherwise not

find a place in one or other of the Assemblies having a place one or other of them.

As to the question of numbers, I do not at all wish to sp hairs as to whether it should be 100 or 105 or 110, but I do wi to say that I do not want to see the number rise very much abo 100. Provided it does not get very much above 100 I do not muc mind whether they are counted in the 100 or outside it, but having them outside it is going to be a lever for getting the tota number of members higher and higher, personally, I should b opposed to it.

Chairman I should like to ask Sir Tej what he feels about this. I feel the difficulty about nominated members, and I appreciate what Sir Tej and Sir C. P. Ramaswami Aiyar has said that perhaps they do not come before the Upper House or the Legislative Assembly—whichever it happens to be—with the same authority as if they represented, so to speak, a number of people.

It has been suggested, not as an idea taken from other constitutions, that certain *persona designata*, as they are called, should find their way in to the Assembly. I should like to give you the smallest possible example. All sorts of things have been put forward as suggestions for the reform of our own House of Lords, and in order to get what was thought to be adequate representation they would say something like this—I am only giving you an example.

It might be suggested that the President of the Royal College of Physicians should be a member because he represents all the doctors, or some person in that position. I do not wish to put any political thing at all, like the President of a Trade Union Congress, or anything like that. I want to eschew politics, we are only searching out for any avenue now. I see the difficulties of nomination, but there is that way of *persona designata*, but on the other hand I am impressed with what Sir Samuel Hoare says, that you do not want to increase the numbers of the 100 very much, so perhaps such a discussion might continue now both with regard to the Upper House and the Lower House and, in addition to that, the method of representation. It might be convenient. Of course, with regard to you, Your Highness, that is rather a matter for you.

H.H. The Maharaja of Bikaner We made that clear.

Chairman: You made that clear. If I may say so in legal language, all your duty will be to deliver your representatives in good order and condition.

Sir Tej Bahadur Sapru Now that you have made the issue so wide, I will speak generally with regard to both the Houses. So far as the Lower House is concerned, I have been of the opinion and I still continue to be of the opinion, that it would be undesirable, and indeed it would not be acceptable in India to elect your members otherwise than upon a direct basis. I am quite aware of the criticism that has been made against the present

method of election. It has been said—and that is the general line of criticism—that having regard to the size of the constituencies there is not much direct touch between the representative and the constituency. Now, so far as that is concerned, it might have been true to a great extent a few years ago, but the conditions of India have so rapidly changed, and are so rapidly changing from day to day, that I do not think there is much force left in that argument. We are apt to forget that at the present moment the newspaper press, whether it is good or bad, has entered village life, and you will find that there is one person or another in the villages who gets some sort of newspaper and who practically knows everything that is passing in the outside world. Besides that, I have known actually of cases of Members of the Legislative Assembly—I do not say that such cases are large in number—going into their constituencies after the session of the Legislative Assembly is over and addressing those constituencies. We have at the present moment an Indian gentleman who was a distinguished member of the Legislative Assembly for three or four years, or for more than two terms, in London; and I can say from personal knowledge that every year he made it a part of his duty to go to his constituency and to address meetings. I have known other cases also of that character.

The next objection that is raised is that if you adopt the direct method you get people of a more or less unsatisfactory class, men who are most susceptible to outside influence and to popular excitement. Well, I venture to think, from my knowledge of India, that even if you adopt the indirect method the class of men who will come into the Legislature will not be very different from the class of men who come through the direct method; indeed, so far as inspring confidence in the constituencies is concerned, I venture to think that the men who go through the direct door will be much more successful than the men who come through any indirect channel. You deliberately adopted the system of direct election in the year 1919, and you cannot afford now to go back on it. Quite apart from the question of the merits of this matter, I venture to think that any such proposals coming from us here, and coming from the British Government here, will be treated in the country as being of a highly retrogressive and reactionary character. That this is not merely my opinion, but the opinion of responsible Members of the Government of India, will appear from the Government of India Despatch. They say that a reversion to the indirect method of election will, in the present circumstances of India, be condemned by popular opinion in India, and much of the good work that you may do will be destroyed. I am therefore definitely of the opinion that you should not adopt the indirect method of election for the Lower House.

You will remember, Sir, that on the last occasion both Mr. Sastri and I suggested that the numerical strength of the Lower House should be 300. In coming to that figure we excluded Burma from our consideration, and that gives you at the rate of one man per million. Very well. Out of these 300 you have to exclude

the representatives of the Indian States, who will come from the indirect channel of nomination by the Governments of the Indian States. Assuming that the Indian States get representation on the basis of population, which I understand is about 23·5 per cent., and calculating it on the basis of 25 per cent. for the sake of convenience, you must set aside 75 persons for the Indian States. That leaves you a balance of 225, and if you provide for some special interests in the Lower House also, roughly speaking it will come down to 200 as the balance of seats open to the general electorate. Now, we are already sending to the Legislative Assembly something like 105 through the open door of direct election, so in point of numbers the advance will not be very great.

Mr. Gavin Jones: Ninety.

Sir Tej Bahadur Sapru: Well, the advance will not be very great; from 90 we will jump up to 200, and I certainly think it should not be impossible for you to agree that so far as general electorates are concerned they shall send their candidates on the direct basis.

As regards the Upper House, both Mr. Sastri and I suggested on the last occasion that the number should be 150, being half the numbers of the Lower House. Very well If in a House of 150 you have got to provide for the Indian States at the rate of 50 per cent., that will give you only 75 for British India If, on the other hand, you provide at the rate of 40 per cent , as I suggested, that will give you 60 for the Indian States and 90 for British India If you provide at the rate of 33 per cent , it will give you something less for the Indian States I have already said that in my opinion so far as the Upper House is concerned, having regard to the well recognised functions and duties which an Upper House has got to discharge in a constitution, it would be desirable, and indeed it would be politic, to have the indirect basis of election adopted for the Upper House A great deal will depend upon the relations which you establish between the Upper House and the Lower House. If you make the Upper House a thoroughly democratic body, you cannot resist the demand of the Upper House in regard to control over money matters and other matters That is the main reason why, in the Upper Houses of various constitutions generally the indirect basis has been adopted Apart from that, brake upon hasty legislation. e, knowledge, training and stability of judgment. All this can be much better secured by indirect election than by direct election. It is supposed to be a conservative House, but that supposition does not apply in the case of the Lower House, which is supposed to be and ought to be a really popular House. It is a qustion of balance and counterbalance. Therefore, while I am distinctly of the opinion that the Lower House should be elected on the direct basis, I am equally distinctly of the opinion that the Upper House should be on an indirect basis.

As regards the representation of special interests in the Upper House, personally I am prepared to confess that there is a great deal of force in my friend Diwan Bahadur Ramaswami Mudaliyar's argument, but if the special interests which were mentioned by me in my previous speech should insist on that representation, or if we think it, as a matter of precaution, desirable, that there should be a representation of those special interests in the Upper House too, I would not object to it. That would only make it a little bit more conservative, but we have got to be prepared for the conservative character of the Upper House. So far as the Lower House is concerned, however, I think much of the good work which you may hope to do at this Cenference will be absolutely destroyed by you if you give the Lower House an indirect basis of election, more particularly when we find that the Government of India itself, which is not a responsible government at the present moment, thinks exactly on the same lines as I do.

Mr. Jayakar: As regards special interests, my views are a great deal in agreement with Diwan Bahadur Ramaswami Mudaliyar's, but I see particularly that if European commerce is to have special representation in the Upper House, I cannot understand how Labour can be excluded from a similar privilege They counterpoise each other, Labour on the one hand, and European commerce and Indian commerce on the other. So the question arises of giving special representation, and that can be done only in the Upper House, not in the Lower House. Then it is clear that Labour should have representation. As regards the depressed classes, I do not see the necessity of giving them special representation because I understand they are claiming on the basis of their population either by reserved seats and special electorates or in some other manner, direct representation in the Lower House. That will depend on what the Minorities Committee reports, but I understand the special desire of the representatives of the depressed classes is that they should have representation in the Lower House through their representatives elected by their own group. I do not think, therefore, that the necessity arises for giving them special representation in the Upper House.

As for the military classes, the difficulty will arise that we have no definition of military classes. The military classes are those which the present Government, for military purposes, has enlisted in the Army. There is nothing like a military class in India, unless you take those ancient classes which have from time immemorial been fighting, not always for the protection of their own country. So a military class does not exist, but is the creation of British India, and my difficulty is that we shall have to define what "military classes" means in the first place; and I cannot see how their interests will differ from the interests of the general population. I therefore do not see any necessity for giving them special representation as suggested by my friend Sardar Ujjal Singh.

Then coming to the method of representation, my difficulty is this, that although our constitution is democratic, in both

Houses there is direct representation, only in the Upper House a test of election is applied which is very severe and more narrow than that applied for the Lower House.' For the Lower House, the income tax paying population is the electorate. For the Upper House, it is the same income tax paying population, but only those who pay a much higher tax. Three thousand rupees a year, I think, is the limit—I am only quoting from memory—but they elect by direct election, and although that is a less democratic system than the one which I hope will result from the deliberations of the Round Table Conference, my difficulty is that, speaking even of the Upper House, I cannot see how we can go back to indirect election. It exists even now by direct election, and it would be regarded as a retrograde step if we now went back. I am speaking of the Upper House for the moment. It would be regarded as retrograde if, even in respect of that House, we went back to indirect election. I am therefore suggesting that, while I agree with Sir Tej Bahadur Sapru that the Upper House, from the very necessities of the case will have to be made more conservative, more stable—and if I may say so, with the coming in of the representatives of the Indian States there will be a lot of ballast in that House, if I may use that expression—still I see the difficulty of making the election indirect. If the method is that of indirect election, the only method I can conceive will be that the Provincial Legislatures will elect. I think that will be a less satisfactory method than a direct form of election with an electoral test which may be made more severe, more narrow. In both Houses there should be direct election, the test in the Upper House being made more steady, more narrow than in the Lower House. But my difficulty is that all the good work that we may be doing here will be considerably discounted if we go back to a method of election, which, If I may say so, will be accepted with very great hesitation by India.

Chairman: Mr. Jayakar, might I just throw out a suggestion that has been made to me. I have not formed an opinion on it at all myself, but I ought to have asked Sir Tej, too. Assuming, for the sake of argument, and for the sake of argument only, that it was thought that the numbers of the Upper House should be so small that to have any method of direct election might not be practicable—I am only assuming that which has been suggested to me—I do not know what you think of it, I am simply putting it forward as a thing that has been suggested to me—that the Upper House might be elected not necessarily *from* but *by* the Lower House by the single transferable vote. I am not saying it is right, I am not saying it is wrong; I am simply putting it forward as one of those things on which I should like to hear a discussion.

I am not talking about the States' representative, but the idea I think was to some extent derived, though not wholly, from the Norwegian precedent. It may be quite wrong, I dare say it is. As you said, Sir Tej, I am so anxious to explore every avenue, and the pharse that was given to me was that it might be elected,

As regards the representation of special interests in the Upper House, personally I am prepared to confess that there is a great deal of force in my friend Diwan Bahadur Ramaswami Mudaliyar's argument, but if the special interests which were mentioned by me in my previous speech should insist on that representation, or if we think it, as a matter of precaution, desirable, that there should be a representation of those special interests in the Upper House too, I would not object to it. That would only make it a little bit more conservative, but we have got to be prepared for the conservative character of the Upper House. So far as the Lower House is concerned, however, I think much of the good work which you may hope to do at this Cenference will be absolutely destroyed by you if you give the Lower House an indirect basis of election, more particularly when we find that the Government of India itself, which is not a responsible government at the present moment, thinks exactly on the same lines as I do.

Mr. Jayakar: As regards special interests, my views are a great deal in agreement with Diwan Bahadur Ramaswami Mudaliyar's, but I see particularly that if European commerce is to have special representation in the Upper House, I cannot understand how Labour can be excluded from a similar privilege They counterpoise each other, Labour on the one hand, and European commerce and Indian commerce on the other. So the question arises of giving special representation, and that can be done only in the Upper House, not in the Lower House. Then it is clear that Labour should have representation. As regards the depressed classes, I do not see the necessity of giving them special representation because I understand they are claiming on the basis of their population either by reserved seats and special electorates or in some other manner, direct representation in the Lower House. That will depend on what the Minorities Committee reports, but I understand the special desire of the representatives of the depressed classes is that they should have representation in the Lower House through their representatives elected by their own group. I do not think, therefore, that the necessity arises for giving them special representation in the Upper House.

As for the military classes, the difficulty will arise that we have no definition of military classes. The military classes are those which the present Government, for military purposes, has enlisted in the Army. There is nothing like a military class in India, unless you take those ancient classes which have from time immemorial been fighting, not always for the protection of their own country. So a military class does not exist, but is the creation of British India, and my difficulty is that we shall have to define what "military classes" means in the first place; and I cannot see how their interests will differ from the interests of the general population. I therefore do not see any necessity for giving them special representation as suggested by my friend Sardar Ujjal Singh.

Then coming to the method of representation, my difficulty is this, that although our constitution is democratic, in both

Houses there is direct representation, only in the Upper House a test of election is applied which is very severe and more narrow than that applied for the Lower House.' For the Lower House, the income tax paying population is the electorate. For the Upper House, it is the same income tax paying population, but only those who pay a much higher tax. Three thousand rupees a year. I think, is the limit—I am only quoting from memory—but they elect by direct election, and although that is a less democratic system than the one which I hope will result from the deliberations of the Round Table Conference, my difficulty is that, speaking even of the Upper House, I cannot see how we can go back to indirect election. It exists even now by direct election, and it would be regarded as a retrograde step if we now went back I am speaking of the Upper House for the moment. It would be regarded as retrograde if, even in respect of that House, we went back to indirect election. I am therefore suggesting that, while I agree with Sir Tej Bahadur Sapru that the Upper House, from the very necessities of the case will have to be made more conservative, more stable—and if I may say so, with the coming in of the representatives of the Indian States there will be a lot of ballast in that House, if I may use that expression—still I see the difficulty of making the election indirect If the method is that of indirect election, the only method I can conceive will be that the Provincial Legislatures will elect I think that will be a less satisfactory method than a direct form of election with an electoral test which may be made more severe, more narrow In both Houses there should be direct election, the test in the Upper House being made more steady, more narrow than in the Lower House. But my difficulty is that all the good work that we may be doing here will be considerably discounted if we go back to a method of election, which, If I may say so, will be accepted with very great hesitation by India.

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Mr. Joyakar: As regards the suggestion that Your Lordship made, my own opinion is against it. I think it would involve a much more restricted electorate than the Provincial Legislatures' would be. Even assuming that you made the first House, the Lower House, 300, then the British Indian representatives would be a very small number, a very great deal less than the Provincial representatives put together. Therefore if we accept that suggestion we shall be adopting an alternative which would mean that the electorate would be even more restricted. I am not in favour of having a restricted electorate. Therefore the objection I have put forward is of greater force with regard to the suggestion that the election should be in the hands of the Lower House. The other difficulty will be that it will put too large a responsibility upon the members of the Lower Legislature; they would practically be the makers of the Upper House under that suggestion; the Upper House would be their creation, and I am not sure, having regard to the experimental stage through which we are passing, whether it would not open the door very widely to those unpleasant forces—I am not using a stronger expression—which are likely to arise in the first and initial stages of our experiment. It is practically 150 or 200 people to elect the Upper House. I can only say, without being disrespectful to any one, that an amount of pressure will be exercised upon individual members to exercise their votes. I am speaking with caution, because this is a matter on which I do not wish to express strong views.

Chairman: With regard to the indirect election, let me tell you, first of all, what I personally like. I feel the difficulty about direct election to the Upper House; but with regard to the Lower House, if I had to consult my personal wishes only, I should prefer direct election. Supposing the franchise is going to be enlarged—merely for the sake of argument, you see—so that you are going to have a larger franchise than you at present have for the Legislative Assembly, I was thinking of two things: how it would be possible to get the votes of the total electorate; and, another matter, I wonder what it costs to have a big electorate like that. I have never put up for Parliament myself, but I believe it costs a lot in England, and I believe the expenses of a general election are pretty heavy. If you have a very large electorate, if they say: we must have adult franchise, for example, I can imagine that the expense would be pretty great. I do not know what the expense now is; is it pretty prohibitive?

Mr. Jayakar: It varies in different places. In a place like Bombay it is very heavy. My experience is confined to the city of Bombay which I represented in the last House for four years.

Chairman: I recollect reading an account of some English places, not now but some years ago; in some particular town every vote, it was said, cost two shillings. That is what I feel about it, the expenses of candidates.

Mr. Jayakar: That is because at present the constituencies are very large. Take, for instance, a plural constituency, where there are six seats; the whole city has to elect six representatives I do not see any reason why the city should not be split up into six sections, each having one representative A more convenient arrangement and grouping could be made to avoid that difficulty.

Sir Tej Bahadur Sapru: With regard to Your Lordship's suggestions that the Lower House should be the electorate for the Upper House——

Chairman: It is not my own personal suggesion, I am simply putting it forward.

Sir Tej Bahadur Sapru: Yes—the suggestion which has come from you. It is not exactly the same thing as the Norwegian constitution.

Chairman · No, they divide up.

Sir Tej Bahadur Sapru · They divide up.

Chairman: It is the Irish Free State.

Sir Tej Bahadur Sapru. In Norway they divide up There is one general election; then the Lower House meets and sends up a certain number of people.

Chairman: A quarter.

Sir Tej Bahadur Sapru: Yes, a quarter, to the Upper House. So that those men who go to the Upper House have primarily been elected to a Legislature by the people Whereas here, according to the suggestion which has just now been made, the Lower House will be, as Mr. Jayakar has pointed out, an extremely restricted electorate. Not only will it have all the disadvantages of indirect electorates, but it adds one more to them, namely, that the electorate will be an extremely limited one, consisting of about 200 or 225, and I do not think that will be very much acceptable.

There was one other suggestion made by Your Lordship, with which I should have dealt in my previous speech. I am only going to draw attention to the method adopted in Belgium with regard to the election of the Second Chamber, that is in pursuance of what Your Lordship said. They say, in Article 56 (*a*): to be eligble for election to the Senate under the provisions of Clause 1 of Article 53, it shall be necessary as a further qualification to be within one of the following categories: Ministers, ex-Ministers, Ministers of State, members and ex-members of the House of Representatives, holders of degrees conferred by such higher educational establishments as may be determined by law, ex-officers of superior rank of the Army and Navy, and so on, industrialists and employers of labour up to a certain number. They divide them

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into about 21 classes like that. I think Your Lordship put it to Mr. Jayakar that it is just possible to have the Upper House elected or appointed by fixing *persona designata*.

Now there is a precedent for that on a much larger scale to be found in the Belgian constitution, and in some other constitutions that has been adopted; but that has nothing to do with the question of direct or indirect election.

Sir Sultan Ahmed: As regards the number of members of the Upper House, I think we ought to try our level best not to make it too large; it ought not in my opinion to go beyond 100 if possible, excluding, of course, certain officers of the State who may have to be brought in to represent the reserved subjects, or such special classes as you have got here, such as labour and the depressed classes. I should like it to be as near 100 as possible. As regards the Lower House, my opinion is that it ought to be as large as we can conveniently have it and 300 would not be too large for India. In fact, if necessity arises, we might make it a little bigger even than 300; but certainly in my opinion not less that 300.

As regards the method of representation, I cannot conceive how you can have direct election for the Upper Chamber, considering the small number of members. You will have 100 in all; that means that for British India you will have, say, 60 or 70, or whatever the number may be. You have to divide that all over India, and you will find on calculation that in some cases one man will have to represent a constituency of 80,000 square miles. Whether he will really be known to the electors at all, or whether the electors will even know who this man is, if there is direct election, I leave it to you to judge. In my opinion it will be a false representation, and will be no representation at all, if it is to be done by direct election. Therefore I think there is absolutely no escape from the position that the election to the Upper Chamber must be by the indirect method through the Provincial Legislatures, because in my opinion that is the best machinery which can provide representatives to the Upper House, not by the Lower House of the Central Legislature, as you have suggested, or as was suggested to you, but the Provincial Legislatures.

As regards special representation of these classes, such as labour, the depressed classes, Europeans, and so on, I would like to have them both in the Upper House and in the Lower House, but certainly in the Lower House. These are very large interests; in fact, the list shows the importance of the interests represented by these classes. I say that in all humility, but I suggest that it would be futile to say that these people should not come into the Lower House. In my opinion they must come in; but as to whether they should be in the Upper House or not, I entirely agree with Sir Samuel Hoare that that might depend on the wishes of the representatives of those classes who are here. But so far as the Lower House is concerned they must come in there, and that by direct election. The elections to the Lower House must be, it

my submission, by the direct method. The objection that each member of the Lower House will have a very large constituency does remain there, but not with such great force as in the case of the Upper House, because the number here, in my submission, should not be less than 300. At present we have got about 105 elected members in the Legislative Assembly. We shall be practically doubling that number so far as British India is concerned, and by doubling that number you would reduce the area of the constituency by half.

Chairman: Would you mind, if you kindly would, just giving me the figure again with regard to the square miles?

Sir Sultan Ahmed · 80,000 square miles

Chairman: Am I right in thinking that British India is 1,100,000 square miles?

Sir Sultan Ahmed · Yes.

Chairman · And then, if you take away from that Burma, which is 233,700 square miles, you would get British India without Burma 866,300 square miles.

Sir Sultan Ahmed: Yes, that is right

Chairman: Now supposing there were 250 members in the Lower House for British India—

Sir Sultan Ahmed · I am talking about the Upper House

Chairman: I want to come for a moment to the Lower House I am taking the largest figures I can There are 866,300 square miles in British India without Burma Assuming, for the sake of argument, that there were 250 members in the Lower House, you have got to divide 866,300 by 250 to get the area of each constituency.

Sir C. P. Ramaswami. 3,000 odd miles

Chairman: Yes; that is one member for each 3,000 square miles.

Sir Sultan Ahmed · Yes, that is so, but there may be a constituency the area of which may be 80,000 square miles I have got one I am taking the Upper House

Chairman: I am taking the Lower House Then your figure is the same as mine. Now will you please go on.

Sir Sultan Ahmed: Therefore the direct method will not be very reasonable so far as the election to the Lower House is concerned. I would certainly prefer direct election to both Houses, but in my opinion it is impossible to have it for the Upper House. I would certainly have it in the Lower House. If we do not have it, I am certain as Sir Tej Bahadur Sapru and Mr. Jayakar that it will be unacceptable to India.

Mr. Jayakar: I want to point out with regard to what is said that at present in the Upper House there are 33 persons elected by the whole of British India. If, as I agree with the Rt. Hon. Mr. ..., 150 should be the number of representatives in the Upper

House, deducting those who represent the Indian States, that percentage would be considerably increased.

Sir Samuel Hoare: I am very much aware of the fact that questions of this kind raise every kind of practical difficulty. I think I myself have been on two, if not three, Committees dealing with our own Second Chamber, and I know very well that whenever you have constitutional questions of this kind, it is very difficult to get even two members of the same party to agree upon a particular scheme. Therefore, Lord Chancellor, in approaching this question I do it with a full knowledge of the complexity of it. I do it also with a full knowledge of the fact that there is the past history of the years since the Montagu-Chelmsford Reforms came into operation; that under those Reforms a system of direct election has been adopted, and it is always much more difficult to introduce a change when a system of that kind has been adopted than it would be to apply indirect election if the sheet was a perfectly clean one. None the less, Lord Chancellor, speaking for myself, I look at this problem from an entirely realist point of view. I am not in the least interested in theories about direct or indirect election, or about any of these phrases connected with this or that kind of constitution. I approach it as a politician who has been in politics a good many years and who knows the kind of practical difficulty that, anyhow, faces politicians here, whatever may be the position in India. I also approach it with the very firm conviction that what we are trying to do is to set up a new kind of constitution in India altogether, namely, a Federal constitution, and I think there is a grave risk, anyhow in my own mind, and perhaps in the minds of some of the other members of the Committee, that we still think too much in the terms of a unitary Government.

Now, taking those two bases as the basis of my line of thought, I am first of all faced with the great geographical difficulty admitted by everyone in the way of applying direct election. My own very firm view is that here, at any rate, the whole system of our representative Government depends upon a very close contact between the member and his constituency.

I have got what is perhaps the most highly centralised constituency of any one in this Kingdom. This building is almost within it, and I have 50,000 electors all within a drive of ten minutes in a taxi-cab from my house. Yet even so I find it very difficult to keep in touch with any very large number of those 50,000 electors. When I see the kind of picture portrayed upon page 115 of the First Volume of the Simon Report—if I may venture to quote that document—and when I take into account the figures just given by Sir Sultan Ahmed, I cannot bring myself to believe that there is any of that basis of contracts between the member and his constituency in any scheme of direct election for either the one Chamber or the other.

But now, Lord Chancellor, even if I am wrong in that view I am equally convinced that from the Federal point of view it would be a great mistake to continue the system of direct election. I

regard the future success of Federalism as depending very much upon making your two Federal Chambers as Federal as possible I am afraid that if you do not do that you will almost inevitably have sections pulling against each other in one or other of the Chambers, and possibly one Chamber pulling against the other, and on that account the kind of Federal Centre I should like to see would consist of an Upper Chamber composed of the representatives of the various Governments of the States and of the Provinces, a Chamber definitely on the lines of the German Bundesrat of the period before the war, an essentially Federal body I am very much afraid that as soon as you get away from the Federal conception you will introduce the kind of divergent elements that you have already got in such Senates as the Canadian Senate and the Australian Senate, with the result that there is always continuous wrangling going on between the federal conception and the unitary conception.

With regard to the Lower Chamber, I should like to see this composed on the basis of indirect election from the Provincial Legislatures. I am now speaking, of course, only for British India I think if you did that you would have two Chambers very well fitted to carry out the explicit and definite Federal duties that we are going to impose on them I would ask the members of this sub-Committee to take into account in particular the question of finance It is quite clear to me that the question of finance—namely the financial assistance that the Provinces are going to receive from the Centre or, at some distant time in the future, that the Centre may receive from the Provinces—is really going to be one of the most critical questions with which the Federal Centre will have to deal; and, that being so, you want to tie up as far as you can the Provinces with the Centre, and by the Provinces I mean the Provincial Legislatures and the Provincial Governments The closer, therefore, you can bring the Provincial Governments into touch with the Federal Centre the better, and the closer you can tie up the Provincial Legislatures with the Centre the better will your
Federalism work in the fut
I take the view—the very
all on theory but on the
Chamber should be a Cha
of the Federal units, and
representative of their Legislatures

Sir Sultan Ahmed · There are no Legislatures in many Indian States What will happen in such cases?

Sir Samuel Hoare · I quite agree that may make a small difference at first; one would have to rely on Their Highnesses to select a different type of nominated representative for the other Chamber. No doubt they would see to it that their various interests were represented adequately in both Chambers

Sir C. P. Ramaswami Aiyar I am very grateful to the last speaker for having expressed views which though we have been familiar with them for some time it is our duty to meet I have

thus to speak at greater length than I had originally intended. Let me in the first place illustrate my point by a concrete example. I was a candidate for the Lower House of the Central Legislature in January, and I was elected. I was also a candidate for the Upper House a couple of months ago and I was elected, so that I have had experience of both these elections. Now, my constituency for the Lower House comprised nearly three million people, though the electorate itself was about 120,000. It might well be said that a constituency like that was so large as to be practically unmanageable. Indeed, judged by the tests which Sir Samuel Hoare applied with regard to his own constituency, it would be correct to say that I would not get into actual touch with each constituent. It so happens, however, that those three million people are in two of the most highly educated districts in India, and in touring those districts, which took me two and a half months, I found that as a matter of fact on most of the important points which had engaged the attention of the Legislative Assembly during the previous year or two there was a very vivid public opinion, which expressed itself in an unmistakable manner.

There are four persons returned by the Madras Presidency to the Council of State. The electorate comprises 3,500 or 3,600 people. There is a high literary as well as a high property qualification, the payment of high income tax, the tenure of certain offices, the pursuit of certain avocations, having been a member of certain Governments and so on.

Mr. Sastri: Certain title-holders, too.

Sir C. P. Ramaswami Aiyar: Certain title-holders, too. The total electorate for the whole Madras Presidency is less than 4,000. It is therefore not found difficult to have direct election for the Upper House, having regard to all the tests that are generally applied to the Upper Houses in other countries, namely, that you must secure certain elements which it is considered necessary to have represented in the Upper House, such as the possession of property or the possession of a stake in the country or having held certain offices or occupied certain positions. An electorate of 4,000, so far as the present conditions of India are concerned, is not unmanageable.

My point therefore is that if you are going to increase the total number of elected members of the Council of State, the Upper House, which is 34 for the whole of India now, if there are going to be 100 members in the Upper House, and 70 or 75 are allocated to British India, that would be double the present numbers, and it would therefore not be difficult to devise a system of election which would secure the return of the same category of persons as those who are wanted in the Upper House and yet make the electorate quite manageable. That is my first point.

My second point with regard to the Upper House is that an electorate of 3,000 or 4,000 for a Presidency, or about 32,000 for the whole of India, is not of an inconvenient or embarrassing size. It

would give those elected to the Upper House a bigger constituency and a greater authority and a bigger sanction behind them than if they were merely elected by the 100 to 120 members of a Provincial Legislature, care always being taken that those elements which should be represented in the Upper House are represented in that way.

Coming to the Lower House, I desire to meet the arguments Sir Samuel Hoare has put forward, and in doing so I need go no further than to refer to para. 133 of the Despatch of the Government of India, in which they point out there is a great danger of excessive provincialisation if the idea is adopted which was suggested just now. I should like to read out one sentence which appears on page 120 of the Despatch of the Government of India. After having stated that *primâ facie* they are rather attracted by the scheme of indirect election, the Government of India, para 133 say: "It is only when we set ourselves to examine the actual working of the indirect system, its probable effect on the constitutional machine at the Centre, and its possible consequences in the Provinces, that doubts arise. Some of these we have already expressed. The confusion of electoral issues between the Centre and the Provinces, the dangers of excessive provincialisation in the Central Legislature, and the election of the latter for a fixed term, all seem to us to contain the seeds of future complications." Then they deal with the difficulties of proportional representation, and finally they refer very emphatically to the use of restricted quotas for a system of election which must be secret. It causes them, they say, considerable anxiety; they say "we cannot but attach importance to fears already expressed that a wide door is thereby opened to the employment of improper methods."

The difficulties are indicated there, but there is a much bigger difficulty than those set out there, namely, that if you adopt indirect election for the Lower House at the present moment you will be confronted by a solid wall of opposition in India. That opposition is much more widespread and more generally influential than is imagined in this country. The Legislative Assembly and the work it has done and the prestige it has achieved, notwithstanding the difficulties of the great electorates and what has been pictured to be the insufficient touch of the candidates with their constituencies, have occupied a certain definite place in the national life, and this fact must be borne in mind. Any system of electing the Lower House other than on the basis of direct election is bound to arouse such organised and widespread opposition that as a responsible member of this Conference I am bound to bring to the notice of this House the danger of adopting such a system. You will most certainly find—and I am not exaggerating matters when I say this—that if you adopt indirect election for the Lower House of your Federal Legislature your scheme will not be accepted in the country amongst the politically minded people who have to work these reforms. I have no hesitation in saying that, and I would go to the extent of saying that it is not worth while pursuing that course, because the men who will have to work the reforms will not work

The position is quite clear. And nowadays the influence of the political classes is very vivid in the villages.

I will now deal with another aspect of the matter which has been suggested by what has been said. It has been pointed out that we are apt to lose sight of the new state of things which has come into existence by reason of our accepting the ideal of Federation.

Lord Peel: Hear, hear.

Sir C. P. Ramaswami Aiyar: That is a very weighty remark. At the same time, it must not be forgotten that by virtue of that very federation the subjects that are going to be dealt with by the Federal Legislature are wholly different from the main categories of subjects which are going to be dealt with in the Provincial Legislatures. They raise points of national importance and arouse great and widespread interest, and the kind of man whom you will want to see in the Federal Lower House is not necessarily the integration of the kind of men who are to be found in the Provincial Legislatures. You really want a different type, and it is not by raising to the *nth* degree the man who is a representative in the Provincial Legislatures that you will get proper representatives in the Lower House of the Federal Legislature. You want a different category of subjects to be handled by different men, and it is as well for the men who will handle those subjects to be in touch with the organised and educated public opinion of the country in relation to those subjects and not only with a Provincial Legislature dealing with local subjects. From that point of view, having regard to the wide differentiation between the subjects dealt with in the Provincial Legislatures and the Federal Legislature, I would say it is necessary that the representatives in the Federal Legislature should be in touch *vis-a-vis* those subjects with public opinion, not restricted to the Provincial Legislatures but spread throughout the Province.

Mr. Gavin Jones: Sir Samuel Hoare has asked for the opinion of the minority communities. I represent a minority community which we think is important; we are small in numbers, but our interests are very large, and our interest in this matter is this. We do not mind who is going to be in the Government, provided that the Government is stable. It may be British, it may be Hindu or it may be Muhammadan; that does not matter at all to us so long as it is stable. Therefore, Sir, our aim with regard to the formation of this Federal Government is that we should produce a Legislature to which responsibility can be given.

Now, if the Legislature is going to obtain responsibility, we think this question of the representation in the Legislature is of the greatest importance, and it is very difficult for me to give an opinion as to the position of the two different Houses, the Upper and the Lower, without knowing what are going to be the powers of those two Houses.

If the Upper House is going to have the final decision and is not going to be over-ridden by the Lower House, then the question of representation in the Upper House is of first importance. If, on the

her hand, the Lower House is to have the maximum power, then e shall have very seriously to consider how this Lower House is oing to be constituted. There is another possibility which has, I elieve, already been suggested. If the final decision is going to e in the hands of a joint session of both Houses, then we must very arefully consider how both the Houses are going to be constituted. herefore I would like to deal with this question of representation ı the Legislature as a whole; and our community is very strongly f the opinion that no responsibility should be transferred by the ritish Parliament to a Legislature unless we are quite sure that ; is going to be representative of all interests. I say "interests" ecause there is a tendency to try and base representation on popuation. Now, that cannot be done We have got to do away with he idea of this purely democratic ideal. It cannot work in India et The very fact that you have got to create special constituncies, the very fact that you have got to give weightage to different ninorities, the very fact that the Indian States want weightage, neans that it cannot be purely democratic, and therefore I would ike to get away from this democratic ideal as a basis I do not nean to say the democracy is not to be represented, I think it should e; but it is not the whole question It is a question, like all other Governments, I think, of political expediency, as Sir Tej Bahadur apru said the other day.

Now, our difficulty here to-day is this, that as far as British ndia is concerned we are endeavouring to create a federation, and he British India Delegates do not represent States, they represent various communities, and each community is thinking all the time, nd quite rightly and properly so, of what kind of federation or vhat kind of representation will suit their own community There-ore it is up to the British Parliament to consider these matters very carefully and to endeavour to hold the balance Now, the balance should be in the form of interests and there is one subject which everyone has avoided, but which must be met, and that is that the Crown must be represented Now, the Crown, on a population basis, would have no representation at all, but when you come to consider that the Crown has to undertake the responsibility of defence, foreign affairs, protection of minorities and financial stability, it is a very great responsibility, and therefore we are very insistent that no responsibility should be transferred to a Legislature in which the Crown is not adequately represented I will not go into those figures just now

As regards the method of election, we are, of course, strongly of opinion that the Upper House, at any rate, should be indirectly elected, and I think Sir Tej Bahadur Sapru is on a sound constitutional practice when he says that the Upper House should be elected indirectly and the Lower House directly However, as has been pointed out by other speakers, there are grave difficulties in the way of direct election; and without opposing definitely direct election I should very much like to reserve our opinion on that until the matter can be further gone into to see if some more reliable means of election can be found for the Lower House

As regards special constituencies, the special constituencies, as has already been pointed out, are very important indeed, and most certainly they should be represented in both Houses.

As I said before, you have got to consider if this is going to be stable government, and I would like to point out to the British Indian Delegates here that unless we create a Legislature which will be acceptable to all—the Indian States, the minorities and the British Parliament—we shall not be doing any good at all, and we have got to consider the opposite point of view besides that of our own communities. I think that is all I need say just now.

Sardar Ujjal Singh : With regard to the Upper House, I cannot see how direct election is at all possible. Of course, at present we have got direct election to the Council of State, but the number of electors is so small that direct election is made possible, and when we bear in mind the fact that for the Centralised Legislature for the Lower House as well as for the Upper House we have got to reserve seats for the minorities, the various communities have got seats reserved for them either at present through separate electorates, or it may come too, by joint electorates, at any rate the size of the constituency becomes much larger on account of the fact that the different communities have got seats reserved. For example, the Sikhs are represented by one member in the Council of State, and the whole of the Punjab is one consituency in the Council of State. Of course, that is made possible only because the number of electors is so small. Besides, in order to give a federal character to the Central Legislature we must have at least one House in which indirect election ought to be resorted to, so that the Provincial Governments ought to be represented through their Legislatures, and if the Legislatures of the various Provinces should elect members to the Upper House in that way, we can maintain the federal character of the House as well.

With regard to special interests, I am strongly of opinion that those interests ought to be represented in the Upper House as well. Now, in the Council of State about 26 seats are nominated seats, and the Viceroy has power to nominate those interests which cannot find representation otherwise. For example, what interests out of the special interests which you have enumerated can be left out in the Upper House? Of course, there will be certain interests, like the depressed classes, which might find representation otherwise through the Provincial Legislatures by indirect election, because in some of the Provinces they would come in large numbers, and by the method of indirect election and the single transferable vote they would be represented in the Upper House, and so would the six Sikhs be from the Punjab Legislative Council by the method of indirect election, and possibly Indian Christians; but they may not be represented to that extent, and perhaps some other method might be devised, either by nomination or otherwise, to get those interests represented in the Upper House as well. The Indian commerce and European commerce may either be represented by direct election or by nomination, as the case may be, but they cannot come by indirect election through the various Provincial Legislatures.

With regard to the military interests, I do not insist, or ra I never meant to convey, that particular classes have got monopoly of representation. What I meant to say was this, the military interests require to be watched. Now, in the Pu special care is taken for the education of the children of ret soldiers, and it is only through a representative of the milit people or the military classes, or the soldiers in the various Leg latures, that they can ventilate their views and impress upon t Legislature or upon the Government the necessity for taking care those interests.

With regard to the Lower House, I am strongly of opinion tha direct election is the only way which will satisfy the people at large, and unless the people keep in touch with the Central Legislature, with one House, the House of Representatives, they cannot feel, they cannot realise, that that Central Legislature is their own, and it is for that reason, and for the authority which the Central Legislature gets, if the members are elected directly by the people, that I strongly advocate the method of direct election.

Of course, I do realise that the size of the constituencies is a great handicap, and that it causes great inconvenience for the candidates, but at present we are used to it, and we do not find very great inconvenience; and if the number of the Lower House is ncreased at least to 300, then in that case the size of the constiency would be considerably reduced, and the reduction of the size of the constituencies will enable the people to put up with that inconvenience, if there is any inconvenience. I think, therefore, that direct election should be resorted to for the Lower House.

Mr. Jinnah: I am in this position. It is very, very difficult ndeed to express one's opinion on these two points unless in the st instance I know the degree of responsibility which is going to be transferred from the Provinces to the contemplated federal structure, Legislature and Government. The second difficulty I have is that, until I know the powers and the functions of the two Houses in relation to each other, again it is very difficult to express an opinion on the points which are now before us. Therefore, Sir, if I make a few remarks you will take those remarks as mere suggestions that strike me on the spur of the moment.

In the first instance I am strongly opposed to any nomination by anybody. If necessary I would have gone into the details and the reasons why I am so strongly opposed to nomination, but I do not think it is necessary for me to go into the details. My experience has been this, that it is the most vicious and the most pernicious ystem to nominate a representative of any body of people even if hat nomination should be made by so high an authority as the overnor-General on the advice of his Council. I venture to say, d particularly with reference to the remark that fell from Sir muel Hoare, that there is no community and there is no class i ha which would prefer that its representative should be nom ed by the Governor-General in Council. The only justification has been put forward for this most vicious system is that there

are certain communities and classes who cannot possibly constitute a proper electorate, and that has been the justification for nominations. Now, if you are going to give those small communities a representative, then I say give them an electorate, and let them choose one of themselves. Either they deserve to be represented or they do not. Well, if they do, then let them choose their own representative.

Then, Sir, with regard to the question of the direct and the indirect election——

Chairman: Would you mind helping me, Mr. Jinnah—because you are always so helpful—just on that last point, which I have noted down: "If small minorities are to be represented, give them an electorate".

Mr. Jinnah: Give them an electorate, yes.

Chairman: I quite follow that point, but would you mind helping me in this respect. I am not saying I disagree with you, because I rather agree with you; but supposing you are going to give labour one representative, one for the whole of India, how are you going to elect him?

Mr. Jinnah: I am quite ready, Sir, to be cross-examined, because I think it is by cross-examining me that you, as well as this Committee, may get some more facts. Now, there are various ways of forming the electorates. With regard to labour, I believe that labour has got various unions now. You can easily form an electorate of the various units of labour and say that either these unions or the councils of these unions should elect their own men. I am told that they elect their representative at the League of Nations at present.

Diwan Bahadur Mudaliyar: The Government merely accepts the elected man.

Mr. Jinnah: Perhaps recommended by the unions; but the nomination, to my mind, does not represent the very people that you want to be represented. The man who is nominated is the mere creature of somebody who puts him forward and gives him a little place and a position; he is a mere creature of the nominating authority.

Mr. Gavin Jones: May I suggest that if the nominations are made properly then he is really representative. I will give you an instance, Mr. Jinnah, in the question of British commerce. The representative of British commerce at present in the Council of State is a nominated member, but naturally the Government takes the opinion of the Chambers of Commerce before nominating him. It is only a question of convenience.

Mr. Jinnah: I am surprised that such an advanced and enlightened body should merely express an opinion about their representative and not elect him; I am surprised. I certainly would not do that; I would rather choose my own representative. But a Chamber of Commerce is in a different position altogether. You put forward a man as a nominee. Well, you know what it means.

I will not say anything more. That vote is the vote of those who nominate him or through whom he has been recommended to be nominated. That vote is not the vote either of the people whom he is supposed to represent, or anybody else

Then I was coming to the question of direct and indirect elections Now, Sir, on that point I quite see the arguments that have been advanced on both sides, but I would like to ask what exactly was meant by Sir Samuel Hoare when he said that in the Upper House it will be the Provincial Governments or the units and the Governments of those units who will send representatives

Sir Samuel Hoare: What I had in mind, if you would like me to answer it now, is the kind of procedure that is now adopted with regard to the representation on the League of Nations, namely, the Governments nominate whatever the numbers should be

Mr. Jinnah: Therefore, so far as the Upper House is concerned, there will be no elections of any kind whatsoever

Sir Samuel Hoare: No.

Mr. Jinnah: Not even indirect elections.

Sir Samuel Hoare. Yes.

Mr. Jinnah · That is how I understood it Now it seems to me that is an impossible scheme It really means that it will be the party and only that party in power, that will form the Government in the Provinces that will send the representatives of that unit to the Upper House. It seems to me, Sir, to be an impossible position because the representatives then in the Upper Chamber dealing with All-India matters, would only be expressing the opinion of that party and nobody else At any rate, they will reflect very largely the views of the party that will be in power in the unit Therefore, I at present think that that certainly will not work I am very glad that Sir Samuel Hoare in the few remarks that he made said that he is now dealing with realities Let us also deal with the realities properly So far as the Upper House is concerned, it has been urged that we have been accustomed to direct elections even for the Upper House, and that it is difficult to persuade the people to reconcile themselves with regard to the indirect elections even in the Upper House There is a great deal of force in that, but I am inclined, Sir, to hold this view, that hitherto in the Upper House, or the Lower House, or the Central Legislature altogether, we had no responsibility there We are contemplating now—and of course I am speaking subject to that—a great deal of responsibility in the Central Government. I would use that expression for the moment· a great deal of responsibility in the Central Government That being so, we must not go by our old idea, or even the Despatch of the Government of India which contemplates no responsibility, and certai ... template the Federal structure of Government. So ... re things We have gone beyond ... plating a great deal of responsibi ... and we are also contemplating the ... That being so,

I am considerably influenced in coming round to this view, that so far as the Upper House is concerned we should have our representatives elected by the Provincial Legislatures. And I think, Sir, it will be better even looking at it from the point of view of their representative character. At present the small electorate is based upon a very high property qualification. I am speaking for Bombay. No one is entitled to vote for the Upper House unless he pays income tax on Rs. 30,000; that is, £2,000 or more. Therefore by this high property qualification the number is very much restricted. As my friend, Sir C. P. Ramaswami Aiyar said, although the Assembly voters are 120,000, for the Upper House there are only 4,000 in the whole Presidency; for the whole Presidency you have got 4,000 voters, and they are different electorates. As I say, I am speaking for Bombay, because I know more about Bombay than Madras. In Bombay we have got a small electorate and it is scattered all over the country. The voting system is by post; you send your vote to the polling booth, and you get your representative in that way. Would it not be better, and would you not get a better representative of the Presidency, if he should go through the fire and the test of those men who will be the members of your unit or your Provincial Legislature, who will come from all parts of the Presidency, themselves elected by large electorates? Would you not get a better representative by that method than by this method, and by confirming that method merely for the purpose of satisfying ourselves that we have got direct election? That is what it really comes to. Therefore, Sir, I certainly am inclined to think that we shall get a man who will represent the Province far more effectively, and certainly we shall get a better class of House, which can be characterised as responsible, sober, experienced, and well versed in the art of government. Now that is all that I have to say about the Upper House.

As to the Lower House, I must admit that it will neither make the Lower House more representative more sober, or more responsible, by adopting the method of indirect elections. And what method of indirect elections would you adopt? Who would elect them by indirect methods? Again—Provincial Legislatures. Who will elect them by indirect methods? I submit that then that will be the same electorate that will be creating your Lower House and the Upper House. What distinctions would you make? What differences would you make? I cannot at present conceive any scheme. But it was hinted I believe some time ago that it may be something like district boards or municipalities. Well, we have gone through that experience in India.

I assure you, Sir, that, I entirely agree with Sir Tej when he says that India has gone ahead. I can tell you that from my own experience, for though he has not contested any elections as far as I know, I have. For the last twenty years I have contested elections, and I assure you that to-day you cannot recognise the electorates that existed ten years ago. There has been a tremendous change in ten years, and a larger and larger number of people are taking more and more interest in their representatives and in what

going on. I do not say for a single moment that the electors understand the complicated issues; they do not do so in this country, for the matter of that. I do not think they understand the questions which are discussed at the Imperial Conference, for instance, and their ramifications. But they do understand general issues and they have very clear ideas as to what is what; and therefore I say I am not prepared to resort to any indirect method of election for the Lower House as things stand at present. I am convinced that general public opinion in India will not have it, and even if we were to disregard that fact I am not convinced there is any advantage in the indirect method. If I can be convinced that by disregarding general public opinion in India, which would be dead against it, some advantages would accrue, I would certainly be prepared to consider it; but to wipe off what British India has done for more than a quarter of a century merely for the theory—and the argument is based on theory at present—that we shall have a more sober and more responsible House and that it will ensure more stability in the Legislature is something which I am not prepared to accept on theory at present. Until I am convinced by some facts, I shall hold very strongly that we should not, as far as the Lower House is concerned, resort to indirect election.

Sir Muhammad Shafi: I should like to say just a word. With regard to the question of nomination to either of the two Central Chambers, I should like to give the sub-Committee my own personal experience. I was a member of the old Imperial Legislative Council, the Morley-Minto Reform Council, three times, twice as the result of election and once as the result of nomination. I am going to speak about the time when I was a nominated member.

Under the rules which were in force at that time, the Punjab Government had to nominate one representative of the Mussalman community in the Punjab, and the procedure they adopted was to ask the Punjab Muslim League, the Anjuman-i-Islamia and the Anjuman-i-Himayat-i-Islam to send up two names each, and from amongst the names thus recommended they selected whomsoever they thought fit for nomination to the Imperial Legislative Council as representing the Mussalman community in the Punjab. You will thus see that the procedure adopted was the one which my friend Mr. Gavin Jones contemplates. Each of these three organisations recommended me, and also recommended certain other persons, but the others were recommended only by two out of the three or by one out of the three. I was therefore, in these circumstances, nominated as the Mussalman representative of the Punjab in the old Imperial Legislative Council.

In the beginning of the year 1919 the Government of India introduced a certain measure in the Imperial Legislative Council. When the Bill came up for discussion every single non-official in the Central Legislature, elected or nominated, belonging to no matter what party, advised the Government of India not to proceed with that measure, which has in fact been the cause of considerable trouble in India. In those days there was an official majority in

the Legislative Council, and the official majority carried the measure through in spite of the unanimous warning given by the non-official members, including myself. When I went back to Lahore after the session was over I received a letter one day from the Chief Secretary to the Punjab Government asking me to see him. I went and saw him, and he said to me, " I am asked by the Lieutenant-Governor ", said he, " to convey to you his displeasure that you did not support Government on such and such an occasion ". My reply was, " You can tell the Lieutenant-Governor that this is not my conception of the responsibility of a nominated member, that he should support Government even if he honestly believes that the Government is committing a blunder in carrying a measure through ".

If that was the position of an independent nominated member like myself (and at that time I need not tell you I was President of several of these organisations and was also President of the High Court Bar Association) you can imagine what the fate of the ordinary nominated member is. That is all I want to say with regard to nominated members.

Mr. Jinnah: May I say one thing? We might yet consider whether we should not deal with the question of the qualifications of candidates.

Chairman: Yes, that is what Sir C. P. Ramaswami Aiyar said.

Sir Muhammad Shafi: I agree with my friends that election to the Upper House should be indirect, and to the Lower House it should be direct.

(The sub-Committee adjourned at 5 p.m.)

PROCEEDINGS OF THE THIRTEENTH MEETING OF SUB-COMMITTEE NO. 1 (FEDERAL STRUCTURE) HELD ON FRIDAY, 2ND JANUARY, 1931.

Chairman: First of all I should like to tender my apologies for being a few minutes late, but the Prime Minister expressed a desire to see Mr. Lees-Smith and myself, and we have been at No. 10, Downing Street.

The next thing I should like to do, if you will allow me to do so, is to do to-day what I had meant to do yesterday—to wish everybody a very happy New Year, and, something more important than that, I want all of us to wish India a happy New Year; and I think I am a true prophet when I say that she will have one.

I am going to ask Lord Reading in a minute to continue the discussion on the matters that we were debating on Wednesday, but before doing so I wanted to read to you a letter which was written to me by a number of gentlemen in the Conference, and which I promised to read, and therefore read now and put it aside. I think Mr. Jinnah said he would like to hear it, too. It is a letter written by Dr. Moonje, Mr. Shiva Rao, Mr. Joshi, Dr. Ambedkar, Mr. Tambe and Mr. Srinivasan. It is addressed to me, it is dated,

perhaps I ought to say, as far back as the 8th December, and a good deal of water has flowed under the bridges since then I read it in fulfilment of my promise. It says:

"Sir,—We feel we are voicing the general feeling of many delegates to the Round Table Conference in expressing our concern at the prominence given to the question of federation between British India and the Indian States It was widely held in India that the main object of the Conference was to devise a Constitution for British India, as distinct from the Indian States, which would confer on her immediately a full measure of self-government But events have taken such a turn since the commencement of the Conference that the idea of federation between the two Indias has come to dominate the proceedings, with the consequence that the subject of full self-government for India has to a certain extent receded into the background In our opinion, the question of federation should have been treated as only incidental to that of self-government for British India, and not as the main question.

"We do not wish to be misunderstood in regard to our attitude towards federation We have warmly appreciated the patriotism and national sympathies of the Princes in their support of India's claim for a position of equality with the self-governing Dominions A proper federation, in the real sense of the term, we would welcome between British India and the Indian States. But there are certain principles which must be observed in the building up of a satisfactory federal Constitution. We fear that your sub-Committee by reason of its too restricted membership, may not have the point of view that we hold adequately represented in its discussions We are, therefore, taking advantage of the opportunity which you kindly extended to the members of the Conference of placing our views before your sub-Committee for its consideration:

"The federation must satisfy the following three principles with all their implications; it must recognise —

(i) The supremacy of Federal Laws in all State territories involving, *pro tanta*, the curtailment of the legislative powers of the States;

(ii) the authority of the Federal Executive to execute Federal laws, ordinances and regulations by its own instrumentalities in all State territories involving direct relations between the Federal Government and the subjects of the States;

(iii) a common Indian citizenship in supersession of the present day dual citizenship, one for British India and another for the Indian States, involving the establishment of the principles that no State, after the federation has come into existence, shall make or enforce any law which will abridge the rights, privileges or immunities of the future citizens of a Federal India resident therein; nor shall it

deprive them of life, liberty or property without the due process of law, or deny within its jurisdiction the equal protection of the laws.

"The Federation should be built up by delimiting the existing freedom of activity of the States so as to make their position approximate, as far as possible, to that of the Provinces in British India. It should not be built up by enlarging the freedom of activity of the Provinces so as to make their position equal and analogous to that now occupied by the States.

This principle should be made operative in the following threefold ways:—

(i) The States should hand over to the Federal Government certain subjects of an all-India character over which they now exercise exclusive jurisdiction.

In Schedule I of our Appendix we give a list of subjects which we think must be Central subjects in relation to the States.

(ii) The Federal Government should have, in regard to certain other subjects, the same powers of administrative supervision, direction and control over the States as it will have over the Provinces.

In Schedule II of our Appendix we give a list of subjects which should be subject to such powers in relation to the States and Provinces.

(iii) The Federal Government should be vested with all the residuary powers in relation to the Provinces.

"Principles governing the Constitution of the Federal Legislature and the Federal Executive:—

(i) The Federal Legislature must be a parliament of the citizens, which is the same thing as the subjects of the Federal Union, *i.e.*, it must be elected by the people of British India and the people of the States.

(ii) The Federal Executive must be a parliamentary Executive with collective responsibility. It should not be a non-parliamentary Executive or a parliamentary Executive with individual and departmentalised responsibility.

Principles of Federal Finance.

"(i) All revenue derived by the Federal Government from Federal sources shall belong exclusively to the Federal Government.

"(ii) All taxation laws of the Federal Government shall have equal force and authority in all the territories covered by the Federation.

"(iii) All expenditure on Federal subjects shall be borne by the Federal Government.

"The above is a bare statement of the principles which in our view must form the basis of a Federation between British India and the States if it is to be real and enduring. We have purposely avoided overlaying it with arguments in support thereof. We shall be glad to give our reasons for the views we hold, if the Committee desires to examine us on the statement.

"We remain,

"Yours faithfully"

And that is signed by the distinguished gentlemen whose names I have read. Then: "Appendix. Schedule No 1. Federal subjects in relation to the Indian States" Then they set out these; "Foreign Affairs, Defence, Customs, Railways, Trunk Roads, Posts and Telegraphs, Currency and Coinage, Commerce, Banking,
Criminal Law; Labour,
iculture; Federal Taxa-

supervision and control
Provinces and Indian
Federal and Central
States.—
nterests of any other
subjects
subject 4 Loans
part of I
of the Central and
5 Quest
tional interests 7
Federal
Questions arising between Indian and other parts of the British Commonwealth. 8 Implementing international obligations *N B.* These lists are illustrative and not exhaustive"

All I want to say in conclusion is this I have read through the whole of it. Many of those things, of course, we have attended to. I have invited Dr Moonje, if he desires, to be present When it comes to the full meeting in Committee and the final meeting of the Plenary, no doubt any one of those gentlemen will be at liberty to raise any one of these questions. I have read it in accordance with my promise, but, as I pointed out to you, it was written on December 8th, and I am glad to think that many of the things they desire we have been able to deal with I now call upon the Marquess of Reading.

Lord Reading. Lord Chancellor, I only want to say a few sentences really on the subject which is under discussion; that is to say, as I understand it; I was not able to be present, unfortunately, on the last occasion, but I have had the opportunity of course, of reading what took place. The subject to which I refer is that of whether the Legislature, particularly the Lower House, should be elected by direct or indirect method of election.

So far as I am able to gather, there is not much controversy about the election of the Upper House, which it is agreed in the main should be by indirect election, and there seems to be no question upon which I need dilate with regard to that. It is a very good way of arriving at a conclusion for your Upper House, and it

does not give rise to the difficulties that have formed the subject of discussion with regard to the Lower House. In respect of the Lower House I understand that there is, not unnaturally, a strong body of opinion which desires that the members of the Lower House should be elected directly by the people, by those who are qualified, of course, to vote. But, on the other hand, there is a feeling also in the circumstances that with the constituencies that will be created, that would make an almost intolerable and impossible condition of things, that you would not really get the true expression of opinion; and one or two suggestions have been made that the election should be by the indirect method.

Since the discussion was taking place, Lord Chancellor, there has been the report of a Franchise Committee, and I cannot help thinking that it is of some assistance to us in arriving at a conclusion here in respect of the question we are now discussing. I would suggest to this Committee that we should give a little attention to the Report of the Franchise Committee, in so far as it may have any bearing upon this. The reason why I am referring to it is that it has an expression of opinion in Paragraph 4.—" While it was generally held that adult suffrage was the goal which should ultimately be attained, it was agreed that the basis of the franchise should forthwith be broadened and that a large increase was desirable."

Now it is quite obvious from that that according to the Report of this Franchise Committee, what we are considering, and the goal which the Franchise Committee seems to have thought should ultimately be attained, is that of adult suffrage. Well, speaking quite roughly, adult suffrage over the population of India would represent somewhere about 150 or 160 million votes, which is a tremendous thing; and, even if you leave out the States, it would bring you to 120 or 130 millions of votes, which is a terrific number. I agree we are not there yet. But then this Franchise Committee goes on to recommend: " that an Expert Franchise Commission should be appointed with instructions to provide for the immediate increase of the electorate so as to enfranchise not less than ten per cent. of the total population, and indeed a larger number—but not more than twenty-five per cent. of the total population—if that should, on a full investigation, be found practicable and desirable ".

The basis, therefore, is ten per cent., and working, with the Fraichise Commission, up to twenty-five per cent., if they can. In other words, this is the point of view of the Franchise Committee: your franchise now is to be ten per cent. of the population, and it should be up to twenty-five per cent. if the Franchise Commission can see its way to do it. Well, that really does change the aspect of matters that we are considering very seriously, Lord Chancellor, and I would earnestly ask the attention of the Committee, in the interests of getting a proper representation of the people in the Lower House—

Sardar Ujjal Singh: This ten per cent. of the total population was meant for the Provincial Councils, not for the Assembly. For

Lord Reading: Of course you have got to make allowances in this way: you follow that out again to the logical conclusion if you arrive at the goal which is sought. You get 600,000 electors on that. Every member will have 600,000 electors. Either that, or you have got to increase the size of your House enormously.

Now I do not think it requires argument, and certainly I am not going to take up the time of this Committee to argue that to have a constituency of that kind, to have one member elected to represent 600,000 electors when you get your adult suffrage, or 150,000 as it is now, is really making a farce of the idea that the representation will be of the people. There must be better ways of arriving at the means of getting a true representation of the people's views, and by some different methods than those we have considered.

As far as I am aware, the only ones that have been discussed up to now are: by an electoral college, a system which is of course quite well recognised; or the other, by primary and secondary elections. But surely that does not exhaust the different ways in which you can get representation, and what I would venture to suggest to the Committee as the really sensible and practical way to deal with this, and which would enable the Committee to give effect to all the views that have been presented here, is that this same expert Franchise Committee which is to be set up to devise means and settle the various questions that have arisen in the Franchise Committee which are left to experts because it is felt that they could not possibly be settled by the Committee sitting here; that that same Franchise Commission should be asked to determine this question, not deciding one way or the other whether it should be by direct or indirect, but leaving it entirely open to the Commission which is going to sit in order that it may devise means of getting the flow of popular opinion in the representation of the House without, it may be, simply taking the number of electors for each constituency. That is to say, if I may give an instance of what I was putting just now, in order to make it clear for the Committee: I am not asking the Committee to decide anything; all I am suggesting is that we should leave the whole question open to the expert Franchise Commission.

Taking the complete result as I explained just now, you would get on an adult suffrage, of course, 600,000 electors for each member of the House. Well, it does not require argument; you cannot do that; something has to be devised. On the present system of 25 per cent. as recommended as the maximum for the moment, that would give you 150,000. That equally is really impossible. But it is quite feasible to devise a means by which you will ascertain the views of those 150,000 or 600,000 electors. I quite see the objection that has been raised to having this representation through the Provincial Legislature for the Lower House of the Federal Legislature. I am not suggesting it; I quite see the objection. But I do think you want to arrive at some means of better ascertaining the views of the electors than taking the individual vote. Therefore I suggest that the whole question of the method of election should be left to this Franchise Commission, and, notwithstanding the argument that I ventured to address, based on

the Franchise Committee's Report, that it would seem almost to me as if the direct election was an impossibility. But I do not even ask that that should be decided. I am quite content, I am so satisfied that anybody examining it will have to devise means if he wants to get representation of the peoples' views direct into the Central Legislature, the Lower House. Therefore I would ask you to consider this and see whether this would not meet perhaps in the best way the problem that we have got to deal with now, and, on a proper recommendation from this Committee, I should suggest then that it could be left to the Franchise Commission which is set up

Chairman: Thank you very much, Lord Reading, I am going to ask Lord Peel if he will speak next, but I wanted to ask Sir C P. Ramaswami Aiyar a question if I may with regard to the electorate. Last August the figures which were given to me, and which I have always been told were wrong, were these. Perhaps you can help me with regard to it; that in 1925 the electorate to the Council of State was 32,126. Let me give you one other figure· that in 1926 the electorate to the Legislative Assembly was 1,125,602. Can you tell me from recollection whether those figures which were given to me last August and which are in my notebook are the total electorate or the total number of people who voted

Sir C. P. Ramaswami Aiyar The total electorate.

Lord Reading: The total electorate is 1,125,000.

Chairman: In 1925 the electorate for the Council of State was 32,126. In 1926 for the Legislative Assembly the total electorate was 1,125,602.

Sir Samuel Hoare: Is that the total number of people voting?

Chairman · In answer to Sir Samuel Hoare, I have tried to get the number of people who actually voted, and it is because I have not been able to get that, that I asked you the question.

Sir Samuel Hoare: You have got it in the Simon Report somewhere

Sir C. P. Ramaswami Aiyar: With regard to the Council of State, the figures that you have given are those for the whole of India.

Chairman: Yes.

Sir C. P. Ramaswami Aiyar: I can speak only with definite knowledge of the Presidency of Madras. The electorate for Madras during both elections remained more or less at the same figure, somewhere between 3,000 and 3,750 So far as the Council of State is concerned, a very large proportion of the electorate voted, and indeed it may be said that at least 60 to 70 per cent. if not more, voted for the Council of State.

The case is very different with regard to the Legislative Assembly, because other political considerations supervened and a very strong political party abstained from taking part in the election. That was one of the reasons why the number of people who voted

out of the million odd electors throughout India was comparatively small—25 to 40 per cent.

Chairman: I am reading these figures, if I may be allowed to do so, from a book known as the Simon Report, Vol. 1, page 223. This answers the point raised by Sir Samuel Hoare. "In 1920, 25 per cent. of the Assembly electorate in contested constituencies went to the poll. This percentage increased to 42 per cent. and 48 per cent. in the two succeeding elections, despite the abstention of a large number of Burmese voters. The Council of State electorate voted to the extent of 45 per cent. and 55 per cent. in the 1920 and 1925 elections, and here again Burma lowered the general average very considerably." That is how it stands, I am told. Lord Peel, would you help us?

Lord Peel: I should like to say a few words, because I am bound to say, Lord Chancellor, that this question does seem to me one of the rather vital points on which the whole system is to hinge. I think, therefore, it is perhaps just as well for those who, like myself, do not agree with some of the views put forward, at any rate to state the opposite case. Because I regard this, and the views that have been expressed upon it, as really an indication of whether we in this Conference are seized fully of the Federal point of view and of all its implications and the deductions to be made from it, or whether we are really looking at it from the point of view of unitary government, influenced, possibly, speaking for ourselves, by the situation in this country.

I will take as a starting point the question of a Federal Government. What is it for and what is it? I will start with the definition that it is an association of units formed for purposes of performing certain functions on behalf of all, and secondly that the Federal Government can call on the units for assistance for purposes common to all. It seems to me to follow from that that the Federal Legislature should in its composition emphasise and declare the fact that it is constituted from and by those units.

Now, the simplest plan, of course, would be when you had your Federal Executive to have one Federal Chamber representing the States for all purposes. That would be the simplest form of constitution, but of course under the circumstances in India, and owing to previous history and to various other complicated questions, the general feeling has been that you are bound to have the complicating factor of two Chambers.

Of course, I agree with an observation made by Mr. Jinnah that a great deal must depend on what you are going to consider to be the relation between those two Chambers. I consider that as we are dealing with Federal Chambers I should make my observations on the assumption that those are equal Chambers. There has been some discussion already about the relationship of those two Chambers; the Second Chamber has been talked of as a revising Chamber, very much on the lines, for instance, of our House of Lords here. That seems to me to be an analogy which

is altogether wrong; the Second Chamber, the Federal Chamber par excellence—the Senate, if you like—cannot be put in that comparatively humble position, but surely must have at least equal powers with the other Chamber. Then let us see how those bodies can be constituted. They ought, I think, to be in the closest relations to the Provincial Governments and the Provincial Legislatures. That follows from what I have said I should like, if I may, just to state that point and then deal with some of the objections that have been raised. I do not want to go over all the ground covered by the Government of India Despatch, but I will say just quite shortly that I think every point made in that document, and all their arguments against indirect election by the Provinces and in favour of direct election are points to which a substantial answer can be given.

Let us assume first of all, then, that the Senate is to be selected or elected by the Governments themselves Mr Jinnah said "Yes, but then they will only be representative of governments and therefore of party governments" Is that so? I understand that the executives or the Cabinets of the Provinces will, if effect is given to what I have heard in another Sub-Committee sitting in this room, probably contain members of different parties, or at any rate of different communities. Therefore there will be a rather broader basis of selection, will there not, than Mr Jinnah suggested But after all, they will be acting not in this capacity as selecting these people for the Senate as the representatives of a party government, the representatives selected will represent the whole Province, and when these gentlemen are elected, they will, I presume, have a certain independence, because they will be acting for their Province, and although a particular Government may have selected them I do not suppose they will be too tightly bound, because they will have broader questions to discuss in which some of the Provincial questions will disappear

Now, we are told very forcibly by some gentlemen that political India [illegible] Well, this federal idea, or rat[illegible]e federal idea, has only lasted [illegible]s very daring of me to suggest that some of these gentlemen may not be completely up to date so far as public opinion is concerned, but surely when they are talking of this desire of political India for direct election they are talking of it in relation to a unified British India, a developed Assembly, and not in relation to this new idea of federalism, which has been developed so strongly during the last three months If, under the teaching of the distinguished gentlemen here, people in India realise that this is to be a federal and not merely a unitary Assembly, will not their point of view to some extent be altered?

If that is so, why should not the Provincial Legislatures themselves be the selectors of the Second Chamber? They will be, if you like, a sort of electoral college, and they might discharge their duties as soon as they are elected and before proceeding to their provincial duties. But if you have two bodies in this way, both the

Governments and the Legislatures in the Provinces will constitute electoral colleges, if you like, for these two Chambers of the Central Government, and a great many consequences will flow from that. We shall have established at any rate a very complete link and tie between the Provinces and the Central Government, and we shall have done something I think to neutralise those centrifugal tendencies of the Provinces which many of those who are in favour of a great deal of self-government for the Provinces naturally fear when they are talking of the Central Government.

I am not, of course, standing for a constituency in India, and after what I have heard I am really very glad that I have not got to do so, because I do not think the extent of the figures which have been given has really been adequately realised. I have stated very shortly what some of the theoretico-practical advantages of an indirect election for these two bodies may be, but it is very important when we find that those theoretico-practical advantages are reinforced by the tremendous practical necessities of the case.

I think we are told about the methods of election, and I think the Lord Chancellor worked out that 3,300 square miles was the sort of average of the constituencies. I should like to lay much more stress on that point, if I may, than Lord Reading did, because he dwelt rather on numbers than on area, and I think area is quite as dominating a factor as numbers. Even that figure of 3,300 square miles is, of course, a very illusory figure, because the Lord Chancellor, in doing that rapid piece of arithmetic, was counting in all the town constituencies as well. Obviously these little compact town constituencies, comprehending, I think 25 per cent. of the people of India, must first of all be excluded. Then you have 75 per cent. of the people in rural constituencies, and it is obvious that, having excluded the towns, the figure of 3,300 square miles would have to be enormously increased. I am told that at the present moment the smallest rural constituency is 6,000 square miles, and the largest is 62,000 square miles. These figures were stated in the other Sub-Committee. When you get to figures of that size you have reached figures which are fantastic for the possibility and purpose of representation. It is true Sir Tej Bahadur Sapru told us he knew a friend of his who did go and address his constituents sometimes. That may be a rare exception, for I cannot believe that constituencies of these enormous areas can really be represented, anyhow according to our idea of what representation is.

Chairman : The total area of England is only 50,000 square miles.

Lord Peel: The total area of England is a good deal smaller than is the largest of these rural constituencies.

If I may just press that point a little further, we have heard there are probably going to be for some time not joint electorates but communal electorates, and it is obvious that if that is so those areas will be enormously increased, and you will have not 60,000

square miles but very likely something very much bigger, and it really becomes a question of what is the relation between a member and his constituents. I should have liked to hear a little more closely what some of our British Indian Delegates really think on this point.

I have examined with some care the proposals of the Government of India on the subject, and I notice that they rather avoid this point, because they say that the electorates in India are organised in groups, in castes and so on, and they rather suggest that that means there need be less contact between a member and his constituents than there is in other countries where these representative institutions have been established. I cannot help thinking that the practical considerations enormously reinforce the other considerations of a federal kind.

I should like if I may, to allude to Lord Reading's suggestion that it should be open to the Franchise Committee to be appointed, to consider in perfect freedom the method of election I am very sorry to differ from him in any way, but I cannot help thinking that this is rather a matter of principle than anything else, and really in it is involved the whole question of federalism and of the relations of the Provinces to the Centre That is a question, in my view, which should be decided by higher authority, and not left to that Committee "with perfect freedom" to work out

I do not know that I need go into all the points raised by the Government of India, but I confess I was not very much impressed by their arguments They are the familiar arguments, of course, that if Provincial Legislatures were to elect people to the Central Legislature, then the whole of the effort of the different parties would be thrown into capturing those Provincial Legislatures in order to dominate the composition and character of the body that was to be the Central Legislature. There is really nothing in that argument at all. I have heard it constantly here in all sorts of connections, but the truth is that the parties will try, and legitimately try, to capture the Provincial Legislatures in any event. They will put all their force into doing it, and they will not have an ounce left to put into capturing them merely because they are going to select the people who are to form the Central Legislature. Moreover the problems to be dealt with at the Centre will differ from those which have to be dealt with in the Provinces, and when the people get into the Central Legislature a new atmosphere will be generated.

Perhaps I am expressing myself rather too dogmatically but I am not very much moved by the fear that these provincial delegates will present, as it were, too much of a provincial point of view. After all, the provincial point of view is of great importance, and it must be presented, it seems to me, in the Central Legislature. What, after all, is the exact distinction between the combined interests of the Provinces represented in the Legislature and acting together and some general all-India point of view?

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I venture to think that if the all-India point of view differs from the interests of the Provinces, it is a consideration to which I think no great attention ought to be paid.

Therefore, as I say, practical considerations seem to me to reinforce the theoretical in carrying out this general federal idea. There are one or two other points to which I want to allude, though I do not want to be too long. First of all, ought the Houses to be equal, or ought they not to be equal, in power and authority? To that question this method of election is very relevant, because we know quite well that when you have directly elected authorities they are apt to assert greater powers or demand greater authority, at any rate, than a House which rests on secondary election or nomination or different forms of limited election; and you may set up, therefore, very undesirable rivalries and combats between these two Houses in the Central Legislature which would be avoided if both Houses sprang, as it were, from the loins of these Provinces and really in large measure represented these Provinces as units rather than large constituencies consisting of a variety of individuals.

Moreover, I do not think that we need fear that Provincial rivalries—acute, of course, in the different Provinces, because they are working at the Provincial subjects—should be carried by these representatives into the larger, though restricted, area of the Central Legislature. They will find that other considerations will come up, and they will not necessarily be at all tied by any narrow Provincial view as regards a more general Provincial view. Then, of course, as regards all financial questions this close tie between the two sets of bodies will be of immense value, whether it is for the purpose of making grants to the Provinces, or under the scheme which has been suggested, by which the Provincial ministers are to get together and persuade, if they can, the Central Finance Minister to raise money which is to be spent in the Provinces. It is quite obvious that if that is the way of dealing with finance a close tie between the Governments and the Legislatures in the Provinces and the Central Legislatures will be of enormous effect in making things more easy; and, after all, at first is it not very likely, and perhaps later, that there will be a great deal of possibility of jealousy or friction between the newly set up Central Government and these Provincial governments? If they are constituted, as I say, in this way, by tightening the tie between the two of them, bringing them close together, is there not anyhow a great chance that these rivalries will be greatly lessened, and that the relations of the Central Government to the Provincial Governments, and of the Provincial Governments to the Central Government, will be made far more easy by these methods?

I submit, therefore, Lord Chancellor,—because I do not wish now to go further into the matter—that these methods of indirect election, say, by the Governments and by the Provincial Legislatures, will have really far more effect for tying India together, for tightening up the centrifugal tendencies of the Provinces, for

introducing harmony between the Central Government and the Provinces than any more general system of direct election would do; and when that is reinforced, as I say, by the enormous practical difficulties of the question, I trust that we shall look anyhow with some favour on a more limited and more indirect method of selecting these two chambers.

Chairman : Thank you very much, Lord Peel We are very much obliged to you Have you anything to add, Sir Samuel Hoare?

Sir Samuel Hoare : No, Sir, I do not think I have anything to add to what I said the other day.

Chairman I think you, Sir Akbar Hydari, wish to say a few words on this, do you not?

Sir Akbar Hydari · I think, Sir, that most of the arguments have been exhausted in the course of the speeches on different sides. I simply want to say this, that when the Indian States came forward with a desire to come into a federation, I think the whole conception of the legislature that was to be created changed; and as has been emphasised from time to time, we are too much apt to translate what exists at present, and the feelings and mentalities that are at present working, into what will be inherent, or what will be required, in the institutions that we are proposing to create As has been quite recently said, most of the speeches have been on the assumption that the Federal House will have the same work to do and the same functions to perform as the *present* Legislature in the *Centre*, whereas, in point of fact, it will be now a *Federal* Legislature into which quite a different element comes in—namely, the element of the Indian States with their own peculiar polity; and I think it is well known to most of the members of this Committee that the Indian States at first held the very definite view that the only Legislature in which they could take any part would be a unicameral one, consisting of representatives of both Indian States and British India, and seized only of Federal subjects, and that whatever other legislatures existed in British India would be treated in the same way as the respective governments of the Indian States—namely, that when there was any deadlock their view should have effect only in the form of safeguards which were created equally at the instance of the Indian States and at the instance of British India, and that the decisive voice would be with the unicameral Federal legislature alone, which would have representatives of all the federating units and would be seized only of Federal subjects. However, in order that the Indian States might help and come to unanimity as far as possible, we said that we would come into a bi-cameral legislature, and, if you remember, when my Right Honourable friend, Mr. Sastri, definitely asked me, "Are you for a bi-cameral legislature?" I said, "Yes, but it will depend upon the strength and composition of the Lower House." I had at that time this point in view, that whenever the question came up I would try to place before

this Committee the view that the Lower House should be also a House which represented the different federating units as units, and not that it should be a House which should be considered as one directly representing democracy.

It is for this reason that I want here to suggest whether, if you want to attract the Indian States, it would not be desirable that for the present you should create your Federal legislature in both the houses in such a way that they may find it more easy to come in than it may otherwise be.

I am not for a moment wanting to dictate, or to say that you must do this or that, or that if you do not do this we shall do that. I am simply putting to you the present position of the different federating units, and I am thinking how necessary it is for all of us to consider together what the requirements of the situation are. Therefore it is for this reason that for the present I would prefer that the Lower House should be constituted of direct representatives of the federating units, and that you should not have direct representation of the peoples of the different federating units, because one side, one large block of federating units—namely, the Indian States—have no direct representation of the people possible in their countries.

I would not have urged this had I not also an idea, which has grown after hearing these speeches on the opposite side, whether when we are all unanimously agreed that we should try to have a government of our own, that we should be masters in our own house, whether it is not desirable that those to whom we entrust our affairs should be responsible to a body which has been created in such a way as to ensure—and here I am using the words of my friend Sir Tej Bahadur Sapru—the presence of men of experience, of knowledge, of stability, of judgment, in it. If these qualities can be ensured by indirect election, as Sir Tej Bahadur Sapru said, then why not have that mode of election in the Lower House, which, of course, from past experience will be ultimately the real master.

I, for one, would strongly appeal to my friends on the opposite side to consider this, just exactly as we on this side consider whether it will not be in the interests of our country to have a mode of election to start with which we are sure will give us a stable House, and will give us men of experience and judgment, at least for the present, and then, after the experience we may have of about two or three Councils, to see whether we can enlarge the foundation. *You* may possibly find that you may be able to come more and more to an indirect method of election through panchayats, because I know our friend Mr. Gandhi has always said he has no belief in parliamentary systems, but he believes in panchayats; but it is possible that at any rate in British India institutions might be created through which you might find it more suitable to send your representatives to the Federal House. On the other hand, *we* in the Indian States might have time also to create institutions

which might enable us to send representatives to the Lower House by a system other than a system of pure nomination, to which so much exception has been taken by my friend Mr. Jinnah. At present try to have the representatives of both parts of India of the same category with a view later on, as experience is gained, of changing that category, but still keeping both parts within it.

I trust I have made my point clear. I simply want to say that I, for instance, and I think there are several States like mine, would very much like the Lower House of the Federal Legislature to be representative of the Legislatures of the federating units, and that the Upper House should be representative of those governments.

I may say that there are several States, including mine, which have got Legislatures.

Sir Tej Bahadur Sapru: I want to know whether Sir Akbar Hydari has spoken for himself or for his State or on behalf of the entire Indian States Delegation. I should like, on this point, Their Highnesses to say whether they endorse his remarks, because if they do not endorse his remarks then let me tell them frankly that there is no common ground between them and us.

Chairman: I am so much obliged to you, Sir Tej We will try to get some common ground May I put in a sentence, Sir Akbar. I followed you with very great interest and with very great care Are you saying this—I want to put it as generally as I can—that if the centre of gravity is to be in the Lower House you would prefer indirect election to the Lower House? That is, I think, your point?

Sir Akbar Hydari: Yes.

Chairman · That, I think, is putting it generally.

Sir Tej Bahadur Sapru · I should like to know what Their Highnesses' views are—whethor they treat Sir Akbar Hydari as representing the mind of the Indian States.

H.H. The Nawab of Bhopal: I think some of us hold different views on this question, but we feel that whatever the merits or demerits of indirect election may be, it is a question which chiefly concerns British India and His Majesty's Government; and for us to throw our weight on one side or the other would, at this stage I think, be not correct, and might involve us in a controversy which we wish to avoid. It may also be regarded as an unnecessary interference on our part in the general affairs of British India—a thing which we wish scrupulously to avoid. That is the opinion which we hold.

H.H. The Maharaja of Bikaner · I will only supplement His Highness of Bhopal's remarks, with which I agree, by a few observations. I think one answer to Sir Tej Bahadur Sapru's question has already been given by my friend Sir Akbar in the observations he made expressing his personal views and those of some States. So far as I am aware, I do not know of any strong objections or views

on this point on the part of the States' Delegation, or at least the majority of the States; anyhow, I have nothing to put forward about indirect or direct election. I quite realise that the ideal might be this or that, if we were writing on a clean slate, but, as Lord Peel has himself said, in the circumstances of the political history of India things have gone to such a length—and that was a point brought up by our friends from British India—that I personally think, as Lord Reading has himself said (and I agree with him) that perhaps now it is out of the question to consider, in the Lower House, anything which would mean only indirect representation. The Government of India have themselves, I understand, proposed that there should be direct representation in the Lower House. There are, of course, two important questions. One is the powers of the two legislatures, which we have still got to go into; and the other is this question of the method of representation of the States. That being a matter between the States and their subjects, it does not arise here. We will settle the method of our representation and send our own representatives, representing the various Federal units. I agree with His Highness of Bhopal that for the rest it is a matter for British India and the Crown so far as the election of members from British India to the two Houses is concerned.

Lord Peel: I want to refer to one point which His Highness made. I do not think that His Highness was quite correct in saying that the Government of India came down entirely—was it—on the side of direct representation. Did they not advocate or suggest a mixed system of direct and indirect?

H.H. The Maharaja of Bikaner: That may be.

Chairman: You will find it on page 121. Thank you very much.

Sir B. N. Mitra: May I ask one question, perhaps addressed to Your Lordship, because I am trying to clear my mind on the question of principle to which Lord Peel referred. This is not the first occasion on which a federated system of government is being formed. There exist at the present moment many federal Governments within the British Empire. Is there any single case where in any of these federated Governments the Lower Chamber is elected by a method other than that of direct election?

Mr. Gavin Jones: I think, Lord Chancellor, that is rather irrelevant, because the conditions of other Dominions are entirely different from India.

Sir B. N. Mitra: It is for you, Sir, to decide whether it is relevant.

Chairman: Well, I would rather like to say I want notice of that question. Now might I ask you what the answer is?

Sir B. N. Mitra: My knowledge is based upon a study of books, and I have failed to find anything in the constitution of any

federated territory which provides for indirect election to the Lower Chamber.

Chairman: I think so far my researches rather agree with yours, but we must live in hope.

Sir Samuel Hoare: Then, Lord Chancellor, may I ask you another question, of which also, perhaps, you will want to have notice. Is there any other federation in the world of three hundred million people, covering I do not know how many hundreds of thousands of square miles, such as India?

Chairman. This deponent knoweth not. I think I can answer that at once.

Lord Reading: I think the answer to that is definitely "No."

Chairman: Yes. I am very much obliged to you for this discussion.

Sir Akbar Hydari: My difficulty is that here we are federating democratic States with autocratic States

Sir B N. Mitra: I do not want to pursue that further because the answer has been given by His Highness of Bhopal

Chairman: I am very much obliged for this discussion which has been very helpful. I am trying to draw up a report which I hope to submit to you soon; but I am sorry to say that in endeavouring to draw up the report I found I left out one thing Perhaps you will allow me to ask you about it so that we may have a short discussion on it I think the report would be rather incomplete without it Though perhaps the questions do not quite include it. The question is this: What is to be the tenure of the two Houses. We have not put any question with regard to that

Lord Reading: Lord Chancellor, are you passing altogether from this question of direct or indirect representation?

Chairman: I was passing, yes. Do you wish to add anything, Lord Reading? I should be very glad if you would

Lord Reading: I will reserve it until I see the report I was really rather anxious to know where we were with regard to it, I mean supposing, for example, the view which I have been presenting was not accepted

Chairman I do not want in any way to prejudge the question. I tell you now the sort of thing I have put in my report which I am trying to draw up, but at the present moment it is only quite in the making and I have to consider what is being said to-day. As at present advised, what I was putting in the report was this—of course it will be for you later on to look at the report; that in my view, the trend of the discussion was this, that as far as the Upper House was concerned indirect election was preferred. There is only one gentleman, Mr Mudaliyar, who rather wanted it for both; I know what he said. The trend of the discussion with regard to the Upper House, in fact almost unanimous with regard to the Upper House, was in favour of indirect election.

Then I was going on to say that the trend of the discussion with regard to the Lower House was direct election. That is only the trend of the discussion. Then I was going on to say: but, at the same time, although that was the trend of the discussion, many members raised the difficult question which has been referred to by Lord Peel and by Lord Reading. I need not go into area; I need not go into population; I need not go into the centrifugal force. I should put those all out. Then I was going to put at the end of it—and here I was going to take your name, Sir C. P. Ramaswami Aiyar, that on the other hand the reply to that was that the man at the wheel, so to speak, who had passed through both elections had rather thought it was possible to have these large electorates. That is the sort of thing I was going to put up for your consideration; but when the report comes up, of course, it will be a question of what exactly we shall put into it. That is as far as I have got at present.

Lord Peel: May I make this observation?

Chairman: Please. Of course you understand that the report is very shadowy at present, because I have not heard to-day's discussion.

Lord Peel: I thought you rather indicated that some of the criticisms on direct elections and so on were merely based on practical considerations. Important as those are, I think both Sir Samuel Hoare and I really took our stand on principle as well.

Chairman: Certainly. I was going to put that in. Then I was going to put this in but here I am afraid I should please perhaps Lord Reading and for the moment not quite come up to Lord Peel. I was going to suggest possibly that that might be a question eventually for the full Conference. But it might be that the full Conference would desire to have expert examination on it. I follow the difference between Lord Reading and Lord Peel. Lord Peel says: "No, this is so vital, it ought to be decided here and now." On the other hand, Lord Reading said: "No, but this really wants such a lot of thinking out by experts, had not we better refer it to some expert committee, and then the Conference, which will be kept in being, will consider it later."

I never disguise—or at least I hope I never disguise—my own feelings in the matter, and you are perfectly entitled to ask me and I will tell you. At the present moment I have said so and I still say so, personally, I prefer direct election. I like it. That is, perhaps, because I differ in my views on politics from some people. But I do want to see that direct election is feasible. Personally I think that is what we should aim at. But there it is that the doubts arise which I have already expressed. May we leave it at that at present? I will bring the report before you, and would you mind helping me on that matter.

On the tenure, what will be the length of the Senate, what will be the length of the Lower House, may I say one thing and only one thing in opening the discussion. I will not say rightly, I

will not say wrongly, but it has been suggested to me that so far as the Lower House is concerned, there should be some term of years or something like that, [illegible] made with regard to the Upper H[illegible] out so that you may have it. It is [illegible] That is to say that every three years half of them retire. I am only putting it quite generally, you understand, and I do want everybody to understand this, that nobody is committed on this Committee until we see the whole picture Let me say that again until I am afraid you are tired of hearing it But you must explore every avenue Now, Sir Tej, what do you say on tenure?

Sir Tej Bahadur Sapru. I thought there was a vital difference of point of view between Lord Peel and Lord Reading. I do not understand Lord Reading to be definitely opposed to direct electorates He reserves his opinion on that question

Lord Reading: That is right.

Sir Tej Bahadur Sapru All that he wants is that the question of the feasibility might be examined by an expert committee on the lines suggested by the Franchise Committee. That to my mind is an absolutely different point of view from that adopted by Lord Peel It must be distinctly understood that so far as we on this side are concerned, we are not prepared to agree with Lord Peel's point of view. As regards expert examination as to the consti- [illegible] rect contact between the elector [illegible] I quite agree with Lord Reading [illegible] got to be carefully investigated [illegible] ust be understood that we do not [illegible] dari on his side or of the British [illegible]

Lord Peel · I only want to speak as regards what Sir Tej has said I did not want it to be suggested that one was opposed to careful and expert investigation of the question of direct election —not at all I may have misunderstood Lord Reading; I thought he rather suggested that the point should be really to some extent decided by a commission I was only saying that enquiry of that kind must obviously come back to us for discussion on the question of principle.

Chairman: I think so.

Lord Reading: I meant to reserve the final decision.

Sir Tej Bahadur Sapru: I must not be taken to oppose Lord Reading's suggestion with regard to examination by an expert committee.

Lord Reading: What Sir Tej said with regard to my observations was quite right. I did reserve an opinion and suggested that you might have a form of direct election which nevertheless would perhaps have to be the subject of an investigation so as to get something which would approach an indirect election as representing Indian opinion.

Sir Tej Bahadur Sapru: I quite sympathise with that point of view.

Lord Peel: If you wish to prove that direct election is not possible, I have no objection to that case being worked out by a commission.

Mr. Gavin Jones: Sir, like Lord Reading, I can reserve my opinion on this question of direct election to the Lower House; but if, as Sir Akbar suggests is a possibility, the Lower House is going to dominate the Upper House, then most decidedly I am in favour of indirect election. I think everything really depends on the powers that are going to be given to both these Houses.

Chairman: Thank you so much, Mr. Gavin Jones. Now Mr. Sastri.

Mr. Sastri: Lord Chancellor, an important difference of opinion seems to have arisen about which I wish, on behalf of two or three here to declare my view. It may or may not carry much weight, but I wish my point of view to be explicitly stated. Lord Reading's idea to refer this question to a special commission or to the Franchise Committee does not commend itself to me. I find myself thoroughly in agreement with Lord Peel on the subject, that this matter is so important that we must decide on it; we cannot afford to have it examined by another body. I am, however, differing from Lord Peel strongly in favour of direct election to the Lower House. And I do not wish that that matter should be held in suspense even though it is to be examined by an expert body. I wish here and now to say that I am all in favour of direct election to the Lower House.

Sir Muhammad Shafi: Lord Chancellor, in so far as feasibility of direct election to the Lower House is concerned, I would like to invite the attention of the Committee to the fact that election to the Legislative Assembly in India is at present direct, and there have been as many as three direct elections to that House in the past. And no difficulty of any kind has been experienced during this period of ten years in regard to direct elections to the Legislative Assembly. When the strength of the Lower House is increased, as is contemplated, it is obvious that the size of the constituencies will correspondingly become smaller. Therefore, if direct election in the existing conditions has not disclosed any difficulty, it is obvious that in the new conditions which will come into existence there can be no possibility of any difficulty at all. I venture to submit that that argument is conclusive as regards feasibility.

But the matter does not stop here. If I may venture to say so, I have devoted some attention to other federal constitutions, in view of the heavy responsibility resting on the shoulders of each of us in connection with this Round Table Conference. So far as I am aware, there is no precedent in any of the federal constitutions that are in existence at present for indirect election to the Lower House; that I submit strengthens the position of those who

advocate direction election to the Lower House. On *a priori* grounds as well as from the point of view of feasibility, therefore, I cannot conceive of a sound constitution for India with indirect elections both for the Upper as well as for the Lower House. It seems to me that if that were to be adopted, the Central Legislature would in reality not be truly representative of the people of India. I agree that election to the Upper House should be by the indirect method, but I cannot agree that election to the Lower House also should be by the same method The election to the Lower House must be by the direct method

Lord Lothian: Lord Chancellor, may I just make a short remark, because I think there is a slight confusion of thought in some of our minds on this subject I think, if you take the ordinary federal structure, the traditional federal structure, there are two ideas represented in the legislature. That is normally that the Upper House represents the units, that it is a congregation of the units which are federated which are there represented as units, in order to secure that the Lower House, which represents the nation, does not override the independence of the units which are federated. The Lower House should represent the nation and the objection to the indirect system as it has ordinarily been used is that it will not represent the nation if the electing body to the Lower House is the Federal Assembly. It seems to me there is no answer to that. The question of whether your method of electing the Lower House should be direct or indirect, that is to say, whether the individual voter should vote in individual constituencies for each individual member of the Lower House, or whether he should be grouped in panchayats or in electoral colleges, or in one or two electorates, does not alter the fact that it does still represent the nation and not the local Assembly It seems to me that you want to bring that out in the report. The word "indirect," I think, has been largely used as if it always implied election by the provincial Assemblies. That is not so at all. I agree personally, that you cannot elect your Lower House by your Provincial Councils; but that does not in the least rule out the possibility of having an indirect system in which the people and the nation will be directly represented in the Lower House. I think that ought to be quite clearly brought out, if I may suggest it.

Chairman: Yes, I am much obliged I will do that.

Mr. Jinnah · I have all along understood the point which Lord Lothian has just put before us. I quite appreciate that the election of the representatives to the Lower House by indirect election does not necessarily mean that they will not be the representatives of the people or the nation.

We have had that system in India. As a matter of fact, we had that system for our provincial bodies in the old days, and so we have tried it and had experience of it; and it is not my opinion only, but the general opinion that it has been found wanting.

Lord Lothian. What was the size of the electorate, may I ask?

Sir Tej Bahadur Sapru: I quite sympathise with that point of view.

Lord Peel: If you wish to prove that direct election is not possible, I have no objection to that case being worked out by a commission.

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rate a question which must be determined by this Sub-Committee and by the Plenary Conference; I agree with him there. You can examine it a little more if you want to, and have a little more light thrown on it, if you can get any; but it is a question of great importance, and it must be decided here

But, while I agree with Lord Peel on that point, I totally disagree with him as to his other conclusions After listening very carefully to his forcible arguments, I am not satisfied at all that he has made out a case that there will be any such danger as he apprehends in a system of direct election I think that is more the fear of a conservative mind, which naturally dreads democracy.

Lord Reading: If what Mr Jinnah says is right, I must be under a misapprehension. I understood him to suggest that the electorate for the Legislative Assembly as it is now should be retained for the Lower Chamber of the Federal Legislature, and that that was all we were contemplating If I thought that was true and that was the position I should be prepared to express my opinion at this moment, but I have understood that that was not the case. I thought we were considering an electorate for a Lower Chamber on a wider franchise than exists at present. and that that was the view expressed by the Franchise Sub-Committee

Chairman I want to correct a mistake I made with regard to that, because it is rather more in your favour When I read out what the Franchise Sub-Committee had decided, I did so from a draft report which I was given Since then I have been given a printed and signed report dated January 1st, and in that No 14 reads as follows. It is not the long No 14 I read out from the draft report; No 14 in the final report is this "(14) Franchise for the Central or Federal Legislature The form of the Central or Federal Legislature has not yet been decided, and in these circumstances we do not find it possible to make any suggestions regarding a suitable franchise system"

Mr. Jinnah · They do not make any suggestion

Chairman · "We do not find it possible to make any suggestions regarding a suitable franchise system"

Mr. Jinnah. The question is left open. they do not say that franchise should be lowered

Chairman: That is quite right, I think

Mr Jinnah I would therefore point out that it is open to us to express our opinion

Lord Reading I only want to say this If that is right, the basis upon which I have been discussing this matter, and to which I have referred, seems to go, because in the report of this sub-Committee which was sent to me it is said "The danger of an unwieldy electorate is, however, a real one"

Chairman: That was what was handed to me

Lord Reading: "Unless the number of representatives elected is very large, and in that event the elected body would itself

Mr. Jinnah: We had electoral colleges.

Lord Lothian: Yes, but what was the number of the electorate?

Mr. Jinnah: I could not give you that.

Lord Lothian: But that is the point, surely?

Mr. Jinnah: It did not give us satisfaction; we did not get the right men as our representatives. It was found wanting, and therefore we had to change that system, even with regard to our local legislatures.

That is the only method—there may be some other method which may be devised, but at present I cannot think of any other method to which you can resort; you must have either electoral colleges or the provincial legislatures to elect your representatives to the Lower House. There is no third method that I can think of at present, though one may be suggested.

The real point that I want to bring before the Sub-Committee is this. Lord Reading suggested that this question of whether the representatives in the Lower House should be elected by direct or indirect methods might be left open to be considered by the Commission to be appointed. Now, Sir, without any disrespect to Lord Reading, whenever we find difficulties in our way we are in the habit of referring matters to a Commission. If I thought it would be possible for the Commission to throw some new light on the subject, I should be prepared to agree to that suggestion, but what will this Commission or Committee do? What further light do you want on the subject? We have now had ten years' experience of electing our representatives by direct election, and, as I have pointed out, the franchise for these electorates is very high indeed. The members of the Assembly to-day, the representatives in the Lower House, are elected by payers of income-tax. The electors for the Upper House, the Council of State, must have the qualification, not of paying the lowest amount of income tax, but of paying tax on Rs. 30,000, which is more than £2,000.

Lord Reading referred to the report of the Franchise Sub-Committee which has been sitting, and he was rather alarmed at the suggestion for the extension or the lowering of the franchise; but that did not apply to the Central Legislature; that has been expressly provided for. We might consider the question of whether the franchise at present in force for the Lower House should be altered in any way. That is a question which I can understand being considered—whether it should be kept as it is and should not be lowered. That is a point which you might refer to a Committee. But the representatives must be elected, in our judgment, by direct election.

As it is, the franchise is very high and the number of electors very limited, and therefore, Sir, I am not satisfied that any useful purpose would be served by adopting the suggestion of Lord Reading to refer the matter to a Commission, and I agree entirely with Lord Peel that this is a question of principle, or at any

where we have direct election in the existing state of affairs), they started direct elections with adult suffrage. We have not adult suffrage, and by the time we get to it we may have from four hundred to five hundred members in the Lower House, and in that case the size of the constituency will be still further reduced.

Sir M. Shafi: May I have your permission, Sir, to say one word with regard to the proposed reference of this question to an expert Commission or Committee?

Chairman. Yes.

Sir M. Shafi: Apart from the point made by Lord Peel, that *this is a question of principle* upon which this Sub-Committee *is* called upon to express its own opinion, may I invite the attention of the Sub-Committee to this fact. We have in this Sub-Committee an eminent constitutional lawyer, Lord Reading, who has himself been Viceroy of India and who has direct and practical knowledge *of the* conditions obtaining in that country. We have also on this Sub-Committee Lord Peel, who has been Secretary of State for India. On this side we have on this Sub-Committee Indians who have had direct experience, both official and non-official, of the Central Legislature. Personally, I cannot conceive that any expert Committee, consisting of gentlemen with theoretical knowledge only, can be in a position to express opinions better than the members of this Sub-Committee. Moreover, this Sub-Committee is presided over by an eminent constitutional lawyer who is himself an expert in these matters. It seems to me that the reference of this question will merely delay matters, that is all, and will serve no useful purpose.

Chairman. Thank you very much, Sir Muhammad Shafi, I am very much obliged to you. I think that must finish the discussion.

Lord Reading. Except I must say the result of it is that I withdraw the suggestion that I made.

Chairman. It is useless to go on with the suggestion in view of the correction that is made in the Report, which has destroyed the basis of it. I was in the same position as Lord Reading. I also had the first copy of the Report.

Sir Samuel Hoare. I am not quite clear about that. Having withdrawn the suggestion I am not clear what line Lord Reading takes with reference to this.

Lord Reading. I have not taken any because at the present moment I am in complete darkness as to what the franchise is to be for the new legislature, and on that depends my decision.

Chairman. Will you help us, Sir Tej Bahadur Sapru? I do not want to take long over this, but first of all what about the tenure of the Lower House? Is it to be five years?

Sir Tej Bahadur Sapru. I suggest five years and I prefer the rotational system, which is followed in certain Dominions.

Several Members: Not for the Lower House?

become unwieldy." The point which impressed me was that the Franchise Sub-Committee themselves saw the difficulty here—either an unwieldy house or an unwieldy electorate—and that some system must be found to meet it. I was basing my observations on that.

Chairman: I was in the same position as you.

Sir Samuel Hoare: My trouble would not be met in either case, because my difficulty is geography and not numbers.

Chairman: I think we must get on. We will now have the last speech on this, from Sardar Ujjal Singh.

Sardar Ujjal Singh: Lord Reading made two big assumptions. The first was that the size of the Assembly would be 200, and the second was that there would be adult suffrage, on which he based his calculations and pointed out that the number of electors would be 120 millions. But in the Franchise Sub-Committee the maximum and minimum for the Provincial Councils were fixed at 25 per cent. and 10 per cent. of the population, so that by taking 10 per cent. they contemplated an increase of three times in the number of electors for the Provincial Councils. At present the electors are 3 per cent., and they wanted to make the figure 10 per cent. Even if the number of electors for the Assembly is increased three or four times, the total number of electors per member, taking 200 members of the Lower House, would not exceed 16,000 to 20,000. At present there are 11,000 voters for one member and there are 105 members, but if the number of members of the Lower House is increased to 200, and the number of electors is increased three or four times, there would not be more than 20,000 electors for one member; so that there would not be any great difficulty for the candidates there which would make the election impossible.

Then with regard to Sir Samuel Hoare's point about the size of the constituency, at present the size of the constituencies is very large, but when the number of members is increased to 200 the size of the constituency will be exactly halved. Even with constituencies of their present size, the polling that took place is given on page 223 of the Simon Report, where it is said "The percentage increased to 42 per cent. and 48 per cent. at the two succeeding elections for the Assembly, despite the abstention of a large number of Burmese voters." Only 13 per cent. of the Burmese electorate voted, so that taking British India alone the percentage voting in the Assembly elections, even with constituencies of their present size, was nearly 60 per cent., which is not at all bad; and if the size is reduced by one half I believe the percentage voting would increase still further, so that would not create any difficulty.

The third point with regard to the federal character of the Assembly is that, as has already been pointed out by Sir Muhammad Shafi, in all federations the Lower House is directly elected; even in the United States of America, which is a big country and which started elections with a clean sheet (not as with British India,

Sir Tej Bahadur Sapru: No, not for the Lower House; for the Upper House.

Chairman: Five years for the Lower House and the rotational system for the Upper House; that is what is suggested?

Sir Tej Bahadur Sapru: Yes.

Lord Peel: A third at a time?

Lord Reading: Every two years, or something of that kind.

Sir Tej Bahadur Sapru: That is a question of detail; I should not commit myself to it.

Lord Reading: I agree.

Lord Peel: I take it you would have a longer period for the Second Chamber.

Sir Tej Bahadur Sapru: Five years and seven years would be the usual practice.

Lord Reading: I suggest you might consider five years for the Lower House and six years for the Upper House, the point of having six years being that you can then regulate it in the same way as is done with the Senate of the United States, where every two years one-third of them are elected.

Sir Tej Bahadur Sapru: I agree to that.

Lord Reading: You would have some form of rotation of that kind.

Sir Samuel Hoare: Would that rotation make any difficulties for the States?

H.H. The Maharaja of Bikaner: No.

Sir Tej Bahadur Sapru: Your suggestion, Lord Reading, is five years for the Lower House and six for the Upper House, with rotation in the latter case?

Lord Reading: I do not lay particular stress on the rotation being every two years: perhaps every three years would be enough.

Sir Tej Bahadur Sapru: I should prefer every three years.

Sir M. Shafi: Two years is much too short.

Lord Reading: There is a reason for two years in the United States, but I agree that three years would do here.

Lord Lothian: That is a tenure of nine years?

Lord Reading: No, that is too long. There would be rotation after three years, half being elected.

Mr. Jinnah: That would not clear the whole lot; you must have either six years with rotation every two years, or nine years with a rotation of three years.

Mr. Gavin Jones: Yes. I prefer nine years and three years.

Chairman: I do not think we need take up much time over this detail.

Lord Reading: I do not mind which it is.

Diwan Bahadur Ramaswami Mudaliyar · What about the distribution of the members of the various federal units so far as British India is concerned?

Sir Tej Bahadur Sapru: Do you mean how many members are to be assigned to each Province?

Chairman: Mr. Mudaliyar's point is this. Assuming for the sake of argument you have *x* members for the whole of British India, how is that *x* to be divided up amongst the Provinces?

Diwan Bahadur Ramaswami Mudaliyar. I have a suggestion to make about that. So far as the Upper House is concerned, all units should have equal representation, irrespective of population or area. That follows the precedent of many federal organisations So far as the Lower House is concerned, I suggest either the population basis or a joint basis of population and area.

Chairman: Very well. Has anybody got anything to remark upon that?

Mr. Jinnah: Well, that is a matter which requires a little more thought.

Chairman: Yes, it requires a little more thought I will put it in the Report, and it can be considered.

Diwan Bahadur Ramaswami Mudaliyar As far as the Upper House is concerned, there is not much difficulty, but so far as the Lower House is concerned, the question does require consideration.

Chairman: It does, I quite agree Supposing there are *x* for British India in the Upper House, then I think it is agreed that the *x* would be divided by the number of Provinces. With regard to the Lower House we have not come to a determination.

THE CONSTITUTION, CHARACTER, POWERS, AND RESPONSIBILITIES OF THE FEDERAL EXECUTIVE

Chairman: Now with regard to the next one, this probably is the most important question "6 The constitution, character, powers and responsibilities of the Federal Executive." I want, if you will allow me, just to say one or two things and then to invite a discussion on certain lines so that we may keep it within due bounds. The first thing I want to say is this, that it is difficult to discuss the constitution, the powers, and the responsibilities in watertight compartments, because when you are discussing one of them, you are bound to have your thoughts to some extent on one or other of the others The next thing I wanted to say, if you will allow me to do so, is this. We are in many respects when we are considering No. 6, discussing what is to happen during a transitional period, in many respects I think the time will come some day when India will have to work out its own salvation I am not expressing anything at the moment with regard to the time, but I do want, if you will allow me to do so jest to male

one or two general observations, and after I have done that I will ask Sir Tej Bahadur Sapru to open a general discussion.

In my view it is not the slightest use Great Britain suggesting to India something which is not worth having. Now I am going to say something on the other side. It is no use India demanding something which Great Britain cannot at the present grant. Forgive me for putting these things quite bluntly. It is no use putting forward at this stage of the proceedings visionary suggestions or impossible ideals. We want practical, workable schemes. I personally do not think that it is possible, in the short time at our disposal, to go into minute details to a great extent. We must deal generally with the situation, and we must leave many of the minute details to be worked out possibly by expert lawyers, expert financiers, or expert military men. I do not for a moment propose in the discussion of No. 6 to go into this troublesome communal question. I hope and think that when the Hindus and the Mussalmans see the whole building they will be prepared to live together in it. At the moment, and in this Committee, I am building on the rock of goodwill, not on the sands of suspicion.

Now, in order to try to focus eventually the discussion—though I will ask you first of all to have a general discussion of it, and then possibly to come back to some of the outstanding details—I ventured to put down one or two heads, which I will ask you to note down. The first question is the constitution of the Executive. I was going to suggest one or two subheads under that, the constitution of the Executive. The first is quite a simple one and I have worked it out and we need not trouble much about it: (1) How many members? I am not going into very many details there, because I am going to suggest to you certain things. (2) Who appoints? (3) What will be the position of the Viceroy, the Governor-General?

The next point I wanted to suggest to you for your consideration was this: The character of the Executive. I have only got three subheads of discussion under that, and the first is: (1) How will the stability of the Executive be secured? Under that there will be some question as to, to whom they are responsible. (2) Tenure of office. (3) Will some subjects be entirely withdrawn from them?

I am coming to the next one now. The next thing is 3: The powers and responsibilities of the Federal Executive. There again I would ask you, when we come to discuss matters in order to focus this after the general discussion, to note down: (1) Defence and external relations. I am not going to make comments at present. (2) Law and Order. (3) Finance.

I would like just to indicate under Finance one or two subheads not details at all. If you will permit me to say so, with regard to Finance there are great experts round this table. I am only a lawyer, a Lord Chancellor, and not a Chancellor of the Exchequer. You have got people round here who can advise you. All I can do is to indicate one or two questions on which, as a layman only, I

should desire to have your views. One of the chief things in my view—merely speaking as a layman in finance—is that something must be done to secure the credit and stability of the country. I am thinking first of all of India, the credit and stability of India. I am thinking always of India. I am not going to say anything about it; it is only a heading; but while I think of India, I also think of Great Britain, as I am entitled to; I therefore want to see that the interests of Great Britain are secured. Of course, everybody would agree to that. My chief concern is the credit and stability of India itself; but I also want to see that our interests are safeguarded also. When I say "our", I do not want to say it as distinguished from "your". We are all one here, I mean Great Britain's interest. There are several things, I will only indicate them, and I am not going to make any suggestions Things come to your mind at once, like the service of loans, interests and so on, the question of *future loans, pensions in being or maturing*, exchange and currency. I am only giving you some general heads now; there are others, I simply give you those for the moment.

Now I want to say this next that into all these questions there runs one consideration which it is very difficult to discuss separately because it impinges on so many of them. It is this, the next question: the position of the Governor-General, that will come into a great many of the questions.

I have given you the list now The last thing I want to say is this, if you will forgive me just for a moment. I desire to say this personally. I am only speaking as a person now; I am not in any way speaking as a member of any Government or anything

guards, and safeguards not only for Great Britain, but safeguards for India herself; because I put India first in these questions I am anxious to go as far as possible to satisfy the aspirations and ambitions of India, but with due safeguards both for India and Great Britain.

The last thing I want *to say is this: This is not quite a per*sonal matter, but I am going to venture, if you will forgive me doing so, to give the only piece of advice that I should like to give you, because it is advice born of experience. It was my lot to

the late Imperial Con-

eeks on that Committee.

my view will continue

vague phrases. They

ybody goes away rejoic-

ing. But in two years' time, when they have to be translated into practical things people differ as to their meaning, and as soon as there is a difference as to their meaning charges of breach of faith begin to be thrown about. Now I beg you, even if it takes a little more time, to define what we mean. You all know the sort of vague phrases that we use. If you use them here you may go

away very pleased with yourselves when you are laying up trouble when you get back.

I would like finally to say that I have had the advantage and the honour of talking to many of the gentlemen of the Conference who come from India. Let me say it quite bluntly, they all say: Give us responsibility at the Centre. Now, some time in the course of the discussion I should like to know exactly what that means. I have a very definite idea as to what some people think it means, but I know perfectly well that other people think it means quite something else. It is not quite the time to discuss it now. Forgive me putting it to you as a matter of experience. It is perhaps impertinent of me to do it; but I have just come out of a most difficult Conference where the use of these vague phrases has caused us all the trouble. If the only contribution that I can make to the Indian Round Table Conference is this, to get you to define your terms and prevent the use of vague phrases, I shall have done, I am sure, a great deal to help you. That being all I have to say I offer you my apologies for being so long. I will ask Sir Tej Bahadur Sapru to begin a general discussion.

Sir Tej Bahadur Sapru : Lord Chancellor, hitherto the questions which we have been discussing during the last few weeks have been in the nature of an approach to this very big question. And, if I may respectfully say so, your Lordship was quite right in describing it as the most vital question that is confronting us. Your Lordship has just now said that many of our colleagues have been visiting you, and, during their conversations with your Lordship have said: Give us responsibility at the Centre.

I am fully aware of that, and let me tell you that so far as we on this side are concerned we are going to judge of the success of this Conference by the measure of responsibility that we get at the Centre.

In presenting my views on this question, perhaps your Lordship will permit me to point out to you what exactly is the present position, and then I shall point out to you how far we want to move away from that position, and in what direction.

Now, under the present Government of India Act you have an Executive which consists of the Governor-General, the Commander-in-Chief, the Home Member, the Finance Member, the Industries and Labour Member, the Commerce and Railways Member, the Law Member and the Member for Education, Health and Lands.

Now, under the Statute the Governor-General is appointed by the Crown. Section 34 of the Government of India Act relates to his appointment. Section 36 of the Government of India Act provides "The members of the Governor-General's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual". There is no maximum number prescribed for the Members of the Governor-General's Executive Council; the Section provides "The number of the members of the council shall be such as His Majesty think fit to appoint".

Then we come to a very important part of that Section, which provides that three at least of them must be persons "who have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, or a pleader of a High Court of not less than ten years' standing". These words "or a pleader of a High Court of not less than ten years' standing" found their way into the Statute Book when the last Government of India Bill came to be passed by Parliament here

You will be pleased to note, further, that under the Government of India Act there is no provision that the Commander-in-Chief shall be a member of the Executive Council. He is a member of the Executive Council by implication, because Section 37 of the Government of India Act provides "If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive council he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the Governor-General" That is the only provision with regard to the Commander-in-Chief's appointment in the Executive Council There was undoubtedly a time in the history of India when the Commander-in-Chief was not a regular member of the Executive Council, and when similarly the Law Member was not a member of the Executive Council exercising the right of vote; his full position came to be recognised by statute a long time after Lord Macaulay went out from England to India as Law Member of the Viceroy's Executive Council. That is the present position.

Now, you will find that the members of the Executive Council are appointed by the Crown, and it follows as a matter of constitutional law and logic that they are responsible to the Crown In other words, whatever may be the decision of the Legislative Assembly or the Council of State or both of them, that is not binding on the members of the Executive Council The utmost that can be claimed for the Government of India at the present moment is that in their moments of weakness they are responsible to the Legislature, and in their moments of self-consciousness they are full of promises and fine sentiments. Nothing more than that can be said.

I have had the honour of being a member of the Viceroy's Executive Council, and my old chief, Lord Reading, is here. Now, from my personal experience—and I believe it is the experience of my friend Sir Muhammad Shafi, who was my colleague, and of Sir Bhupendra Nath Mitra, who followed me in the Executive Council—this body of seven members of the Executive Council has got to face the Legislative Assembly from day to day during the winter months, and during the months of August and September at Simla, an Assembly consisting of 105 elected members. When you remember that that body, with that elected majority, consists of men like Mr. Jinnah, who are out and out democrats, not to speak of other persons, some of whom are now in jail, you can understand how critical the position of this Executive may be on certain occa-

sions. I have known occasions in my experience, when I was a Member in Lord Reading's time, when I felt that if we had had any backing in the Legislature we should have taken a much stronger line than we did, and I do say—and I maintain it very strongly—that this Government of India, which owes no responsibility to the Legislature, instead of being a strong Government is, and has been for years past, a terribly weak Government.

I am not prepared to concede that the Government of India, by virtue of its present position, has been able to deal with the question of Law and Order successfully. When tremendous trouble has arisen in the country, it is not by resorting to the law of the land—as that expression is understood by lawyers—that it has been able to cope with the situation; it has taken shelter under the protecting wings of the Governor-General. It has had to resort to the extraordinary powers of the Governor-General, and we find that at the present moment India is being ruled not by ordinary law but by ordinances which have been issued by the Governor-General. That is the present position of the Government of India.

Leaving aside Law and Order, and dealing with questions of an administrative character and financial questions, I find that the present Government of India has at times alienated either the sympathy or the support of the Legislative Assembly because it has had orders from an everwatchful Secretary of State for India, whose point of view is not quite the same as that of the Government of India. I have known occasions in my experience when the Government of India, consisting of the Viceroy and of Indian and European members, were of one opinion, but the Great Moghul of Whitehall has overruled us, and we have either had to go down on our knees to the Legislature and try to arrange a weak compromise or we have had to put up with their ridicule and laughter. I will not refer to these occasions, but they will be present to the mind of Lord Reading and also of Lord Peel.

That is the present position in India, and therefore if anybody is prepared to maintain that the Government of India, which owes no responsibility to the legislature, but which owes responsibility to the Crown, is strong Government, I challenge that assertion very strongly. It has got no backing in the legislature and it has got no backing in the country.

There is no racial issue involved here. I will tell you frankly that when I was a member of the Executive Council—and I hope that was the experience of Sir Bhupendra Nath Mitra—there were many questions on which the European and Indian members were absolutely agreed, and yet we were suspect in the eyes of the whole of India; we never received that moral support and backing which we should have received if people had recognised we owed a certain amount of responsibility to the legislature. That is the present position of the Government of India, and that is what it has been for years past.

(The sub-Committee adjourned at 1-7 p.m. and resumed at 3-15 p.m.)

Sir Tej Bahadur Sapru: My Lord Chancellor, before the Committee rose at 1 o'clock, I was dealing with the constitutional position of the Government of India as it was constituted under the Government of India Act, and I had come to the point that in the circumstances in which it stands at the present moment, and has stood for the last 50 or 60 years, it has not commanded any backing in any legislature, either the present or its predecessors Before the new Legislative Assembly came into existence there was the old Legislative Council constituted under the reforms associated with the names of Lord Morley and Lord Minto. At that time the official bloc in the Legislative Council was a very heavy bloc, and when the Government of India found themselves in a difficult position, or whenever they found that they could not carry either the elected members or the nominated members with them, their natural instincts were to fall back upon the solid support of men whose duty it was to vote as they were ordered to vote. That was the position at that time. Now, at the present moment, what is it that you find in the Legislative Assembly? My experience of the Legislative Assembly is somewhat ancient, but there are other members present in this Committee who were, until a few months ago, members of the Legislative Assembly. I think Mr Jayakar will be able to give some account of his experience of the relations that exist between the Government and the Legislative Assembly. Sir Bhupendra Mitra can also illustrate his own experience from the other side—that is to say, from the side of an official member of the Legislative Assembly The point that I was driving at was this It is not that I attribute any moral perversity to the members of the Government of India, European or Indian, I am prepared to assume that at times, and generally, they are anxious to meet the popular point of view, but the point that I am making really is that you have made it impossible for them to be truly responsible to the popular wishes, still less responsive to the popular wishes.

I ventured to describe the Secretary of State for India in an earlier part of my speech as the Great Moghul I was not using the language of exaggeration I wish to point out to you that that is exactly the position that has been assigned to him by Parliament. I hope I shall not be accused of using the language of frivolity. I am quite serious about it He is in truth, as he was before the present Reforms, the Great Moghul with a large harem of permanent staff installed in Whitehall If you will kindly turn to Sections 2 and 33 of the Government of India Act I hope you will agree with me that that gives him a greater power of autocracy of the Government of India than the poor Great Moghul ever exercised over his Viceroys in Lucknow, Allahabad or Lahore

May I invite your attention first of all to Section 2:

"Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as

if the Government of India Act, 1858, had not been passed, might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone."

Then comes a most important sub-section:

"In particular, the Secretary of State may, subject to the provisions of this Act or rules made thereunder, superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India."

Sir Muhammad Shafi.—In other words, the relationship of master and servant.

Sir Tej Bahadur Sapru: I will summarise that immediately. If you will now turn to Section 33 you will find this: "Subject to the provisions of this Act and rules made thereunder, the superintendence, direction and control of the civil and military government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State."

That, I say, constitutes the autocracy of the Secretary of State. That, I say, *constitutes* the subordination of the Government of India. When on an historic occasion Lord Curzon described the Government of India as a subordinate branch of His Majesty's Government, some of us who happened to be at that time members of the Government of India felt our pride wounded. Similarly, when Lord Morley on a former occasion described the Governor-General as his agent, there were publicists who wrote publicly in the English Press protesting against Lord Morley's description of the Governor-General as his agent. With all due deference to those who differ from me I maintain that the Governor-General, or the Governor-General in Council, are truly the servants of the Secretary of State, servants whose bounden duty it is to carry out the orders of the Secretary of State, which, in its turn, sometimes means the orders of the Secretary of State as suggested to him by his permanent staff, and although the Governor-General or the Governor-General in Council may think that the interests of India require a different policy, require a different course of action—and I know from personal experience that there have been occasions when the Governor-General have honestly believed that they were being led on a wrong path by the Secretary of State—they have no discretion in the matter: they must carry out the orders they receive from Whitehall; they have absolutely no freedom in this matter or in any matter of that kind. I am therefore not only pleading for the freedom of my country, but also for the freedom and independence

of the government of my country. That is how I would like to put it.

Now, may I also invite your attention to some other important [illegible] legree [illegible] lia or [illegible] 67A, the Indian Budget, you will find this. "The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian Legislature in each year. (2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General. (3) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs". Now, those heads are, "(i) interest and sinking fund charges on loans, and (ii) expenditure, of which the amounts is prescribed by or under any law; and (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council, and (iv) salaries of chief commissioners and judicial commissioners; and (v) expenditure classified by the order of the Governor-General in Council as (a) ecclesiastical; (b) political; (c) defence"

Now, there are many of these heads which I should like myself to protect under any system, for instance, interests and sinking fund charges on loans, salaries and pensions of persons, or expenditure of which the amount is prescribed by or under any law, and similarly several of the other items that are such that they can be defended; but what I do object to is that this power should have been given to the Governor-General, who is, in the ultimate resort subject to the orders of the Secretary of State Under a thin disguise it is really the Secretary of State and not the independent Governor-General who has got to discharge the functions which are assigned to him under Section 67A

Perhaps my statement may be challenged My only reply to that will be, let the records in the India Office and in the archives of the Government of India, on some historic occasion, which will be within the recollection of Lord Reading and Lord Peel—and may I also add, within the recollection of Mr Wedgwood Benn—bear witness to my statement. I do not want to go through those matters in detail, as some of them came to my knowledge in another capacity, but I do say that the power which is apparently vested in the Governor-General is a power subject to the control of the Secretary of State; and that is the position now

May I at this stage invite your attention especially to Section 72 This is a very special power. This provides for the rescue of the Government of India when they are unable to cope with a delicate situation, as they have been unable to cope with the situation

which has arisen in India; and when I come to the question of law and order I shall have to say something with regard to that. Let me read this section to you: "The Governor-General may, in cases of emergency, make and promulgate Ordinances for the peace and good government of British India or any part thereof, and any Ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Indian Legislature; but the power of making Ordinance under this section is subject to the like restrictions as the power of the Indian Legislature to make laws; and any Ordinance made under this section is subject to the like disallowance as an Act passed by the Indian Legislature, and may be controlled or superseded by any such Act."

I will not go into the history of the Section, but I will point out that this very exceptional power, a power which has got to be used in very rare circumstances, has ceased in actual experience to be used on rare occasions, and in point of fact, whenever a critical situation has arisen, the Government of India, finding themselves deprived of all moral backing and all support, go up to the Governor-General and say to him, "Sir, will you not come to our rescue?" And the Governor-General is, by reason of his isolated position in the country, compelled to resort to this power in these exceptional circumstances.

It has been said that if law and order were under the control of a popular Minister he would be susceptible to the influence of the Legislature, and that the whole machinery would get out of gear in no time. Without being offensive to anyone, I would like to say that no Indian Minister, howsoever misguided he might have been, could have done worse than the Government of India have done in the last twelve months in dealing with the situation which has arisen in India. Their only protection is ultimately the power which rests with the Governor-General under this section. Ordinance after ordinance has been issued. I am not saying that there was no occasion for them, but I do say that it is only by this power of ordinance that the Government of India are able to maintain law and order, and that it does not lie in the mouth of England to say that if this power is transferred to Indian Ministers they will be able to do worse than they themselves have been able to do. I am not fighting shy of these emergency powers, my Lord Chancellor. I know that there are constitutions in which the same emergency power does exist, and I myself should like to favour such emergency power in the circumstances of India. May I remind you that such a power does exist in very explicit terms in the Japanese constitution. I am speaking from recollection, but I believe it is Article 71 of the Japanese constitution which gives the Emperor the power to issue any ordinance to meet a case of emergency; but I do put it to you that they make no pretence in Japan or in any other country, when such extraordinary power is resorted to, of saying that they are maintaining law and order. When you talk of maintaining law and order generally, you mean to imply

that you are enforcing the law of the land, the ordinary law of the land You do not mean to suggest that you are maintaining law and order by resorting to those exceptional powers. That is the weakness of the present Government of India.

May I also remind you how the Government of India get over their financial difficulties. If you will be pleased to turn to Section 67B of the Government of India Act, it is as follows. "Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity, or interests of British India or any part thereof, and thereupon" certain consequences will follow which are mentioned in the section

I can understand the words "safety and tranquility;" they have come to occupy a more or less defined meaning in constitutional law. You find those words in other constitutions also But I will particularly invite your attention to the very broad and extensive language which follows these words: "Or interests of British India or any part thereof" Under those words practically speaking the power of certification may be resorted to on any occasion. I will not discuss the occasions, but there have been I believe five or six occasions during the last ten years when this power of certification has been resorted to

It is also a very exceptional power and a power which prevents the Legislature from rising to its full height, it is a power which prevents the Government of India from acquiring that moral hold over the people which it is necessary for any reasonable government to acquire. These are the exceptional powers which have been vested by the Statute either in the Secretary of State, or in the Governor-General in Council, or in the Governor-General

May I at this moment ask you to consider what exactly is the position in the self-governing Dominions I want to draw the picture so as to bring out the contrast The best way I can do so is by inviting your attention to certain sections of the Dominion constitutions. Let us first of all take the British North America Act. The constitution of the Government is mentioned there; I read Sections 11 and 12.

"11 There shall be a Council to aid and advise in the Government of *Canada*, to be styled the Queen's Privy Council for *Canada;* and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor-General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor-General."

"12 All Powers, Authorities, and Functions which under any Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or

Executive Council, and, if I may use a popular phrase, to show it up to the public as an absolutely irresponsible and at times tyrannical government. It is perfectly natural that the Legislature should adopt that attitude. Then you have no business, I submit, to feel surprised at the attitude of the Legislature. If, on the other hand, the Legislature knew that it was going to be responsible for its decision, that a vote recorded by the majority may throw out the government of the day, and the majority will then have to take responsibility for its decision, I venture to think it would show a greater sense of responsibility and a greater sense of moderation in dealing with actual problems of government and of administration.

May I illustrate what I am saying with reference to the Army position in India. It would be a great mistake to suppose that the attitude of the average Indian politician in the Legislature is one of hostility to the Army. Let me tell you from personal knowledge and from personal experience that there is no department of the Government in which the average Indian politician, or the average Indian member of the Legislature, feels more interest than the Army. But he knows that the Army is not his; he has got no voice in the matters of the Army; and he knows that whatever he may say or whatever he may do is not going to deflect the Government of India from the course which it has chalked out for itself, or from the course which has been chalked for it by the Secretary of State or by the higher military authorities in England. Therefore it adopts at times an attitude of obstruction, an attitude which presents an absolutely different perspective to the outside from that which it should present.

I will not mention names but I remember what two very distinguished colleagues of mine on one occasion said to me. It was said to me that if the Indian Army Budget could be presented by an Indian Minister, and an Indian Minister could stand up and say: "Well, Gentlemen, I feel in the interests of the security of the country, and the interests of the Army who are ready to shed their blood for your defence, that you must vote for this Budget, or that you must take a particular course of action in relation to the Army", even the perverse members of the Legislature would think twice before they would take any decision adverse to the Army. Let me tell you that those two colleagues of mine were not Indians; one of them was a sun-baked member of the Indian Civil Service, and the other was a different man. And I do believe that they were absolutely right.

I personally feel that unless you establish more intimate and more cordial relations between the Army Department as a whole and the Indian Legislature, this trouble which has continued for some time past, is bound to continue in future.

Therefore, My Lord Chancellor, if I were asked: What is it that I mean by responsibility, I would say, first of all negatively, I do not mean moral responsibility; for in political matters and in

constitutional matters wisdom and prudence require that we shall be certain about our words rather than trust merely to moral ideas. Putting it positively, I will say that when I talk of the responsibility of the Central Government I mean that it should be answerable for its conduct and for its decisions to the Legislature. That is to say, I mean that in regard to subjects which you place within the control of the Legislature, the representatives of the Executive Government should feel that they stand there subject to the vote and support of the representatives of the people, or of the representatives of the Federal units. But if they feel that they cannot be turned out of office by the adverse vote of Parliament, then, however good they may be, howsoever responsible they may be, you have not responsible government. That is what I mean by responsibility; I mean nothing else than political and constitutional responsibility of the Executive to the Legislature, such as prevails in the self-governing Dominions of the British Commonwealth. That is my answer to that question

I may now come to the constructive part of my work You may ask me If this is the degree of my dissatisfaction with the constitution of the Government of India, what is it that I would like to be done? My answer is that I should like the Governor-General to continue to be appointed by the Crown as he has been always appointed by the Crown in India, but that so far as his Executive is concerned, the very first thing that I should like to do is to make it impossible for the Commander-in-Chief to be a member of that Executive I believe there is a strong feeling that the Commander-in-Chief should not continue to be a member of the Executive. Having done that, I should not hesitate to replace the present Executive Council by a Ministry chosen from among the members of the Legislature, representing the majority in the House or the majority of the groups in the House, working as a joint Ministry on the principle of collective responsibility under the leadership of a Prime Minister.

I have given you my idea as to what should be done in regard to the Government of India I am aware that you have made provision in your scheme, My Lord Chancellor, for certain Crown subjects, or for certain subjects of a reserved character, for the period of transition Well, I hope I am not wrong in saying that what you have principally in mind is the Army and foreign policy. As practical men we recognise that there is need for caution in regard to some of these subjects; but let us examine the nature of the caution and the extent to which it should proceed. I do suggest that we must be prepared to face certain anomalies during the period of transition; it is inevitable that the constitution should during the period of transition be anomalous.

I suggest that so far as the Army and foreign policy are concerned, or so far as any matter which comes within the description of a Crown subject is concerned, they should be administered by Ministers appointed by the Governor-General and should own responsibility to the Governor-General and not to the Legislature.

The rest of the Ministry should be selected from among the members of the Legislature on the lines indicated by me.

We have been using indiscriminately in the course of our discussions the expression "Official Minister". Frankly, I hate that term, because it gives an absolutely wrong impression to our minds. I should leave it absolutely to the Viceroy to decide for himself whether for those Crown subjects he will take a member from the I.C.S. or from any other Service, or whether he will take someone from the ranks of public men in India. I see absolutely no reason why the Viceroy should be deprived of his discretion in appointing an Indian non-official member of the Legislature or an outsider as the member in charge of the Army in India, on the distinct understanding that he will be responsible to him—that is to say, to the Viceroy—and not to the Legislature. But I should not impose any restrictions on the discretion of the Viceroy at all; I should give him the power to appoint one, two, or three members of his Government to administer the Crown subjects.

The question will, of course, arise as to how this mixed Ministry will work.

Mr. Sastri : I am sure you will not mind my interrupting you to make your point clear. Would you say that the Viceroy must appoint Ministers for these subjects, or should he be free to conduct them with the aid of secretaries?

Sir Tej Bahadur Sapru : I would say Ministers, and for this reason, Mr. Sastri. I prefer Ministers because Ministers can very well go into the Legislature and defend the policy which they, in association with the Viceroy, have adopted, and they will carry far greater weight with the Legislature than your mere Service Secretaries.

Now, the position will no doubt be anomalous, as I have said, but I do suggest that we must put up with that illogical and anomalous position for some time to come. I anticipate that, generally speaking, this Ministry will be able to devise a collective policy. If the Ministry should be thrown out by the adverse vote of the two Houses, based on such a system as I suggested at an earlier stage, then I say the whole of the Ministry should go out, and the Ministers owing responsibility to the Legislature should be replaced by other Ministers drawn from the Legislature, and it should be open to the Viceroy, either to re-nominate the official Ministers—if I may use a phrase to which I have taken exception myself—or to appoint other Ministers who will be responsible to him.

Mr. Sastri : Will they be responsible to the Viceroy if they must resign on an adverse vote?

Sir Samuel Hoare : I am not clear what you said about the adverse vote.

Sir Tej Bahadur Sapru : I am coming to that presently, but I want to define the position which I am taking, namely, that although they will in the day-to-day administration be responsible to the Governor-General, they must, as members of a Cabinet, of a

nistry, stand or fall with the rest of the Ministry. They cannot turned out by the Legislature on their own subjects, but if, on ig question of policy, the Legislature is dissatisfied with the inet as a whole, then the Legislature should be at liberty to ird its want of confidence in the Ministry as a whole.

Mr. Jinnah . If the Cabinet does not agree with your official ister, what would be their position *vis-à-vis* the House?

Sir Tej Bahadur Sapru : They will not resign because they are verable to the Viceroy.

Mr Jinnah . No; you have not understood me If the Cabinet whole, does not agree with the official Minister, when they face House, what position will they take up before the House?

Sir Muhammad Shafi If it is a case of joint responsibility.

Sir Tej Bahadur Sapru I say they will have to discuss matters reen themselves and arrive at a certain decision just as happens resent.

Mr. Jinnah : But if they do not agree?

Sir Tej Bahadur Sapru . If they disagree they will have to face Legislature, and if the Legislature records its vote against the istry as a whole, they will stand or fall with the rest of the istry; but if the Legislature records a vote against the partir Departments for which official Ministers are responsible they not go out.

Mr. Jinnah : Let us suppose the Legislature is seized of a ain issue which relates to Defence, which is in charge of an ial Minister, and let us suppose the Cabinet and the official ister do not agree on that point When they face the Legisla-, what will be the position of your Cabinet *minus* the official ister? What will they do? Will they support him or will tell the Legislature that they do not agree with the official ister?

Sir Tej Bahadur Sapru : My answer is this I have forseen that naly. I do say that on a matter like that the Ministry will not roken because those official Ministers—to use that expression— responsible to the Viceroy. If the Ministry as a whole with rd to any matter, other than a protected matter, is defeated, must go out. That is my answer.

Diwan Bahadur Mudaliyar : But in the Council they will not radict each other openly

Sir Tej Bahadur Sapru · No, I should not allow that May int out what happens at the present moment. I am not afraid nat position. In the present Executive Council of the Viceroy e members are drawn from the public life of the country. At present moment there are two members drawn from the public of the country. Both of them may belong to different groups ublic life; one of them may be a member of an extreme party, the other a member of a moderate party. Then there may be

members of the Civil Service, who hold different points of view on these questions. Yet they are able, more or less, to present a united front to the Legislature on questions in regard to which they have fought between themselves inside the Cabinet. The suggestion that I am making is only an extension of the present position for the period of transition.

Sir Sultan Ahmed : If these official Ministers have to resign on an adverse vote, are not you making them responsible to the Legislature?

Sir Tej Bahadur Sapru : I say they would not resign on the adverse vote of the Legislature. You have not understood my position. My position is that if there is an adverse vote against the Ministry as a whole they will go out, but if the Legislature records a vote against the policy adumbrated by the official Ministers, they will not go out.

Mr. Jayakar : There is no joint responsibility with regard to those matters?

Sir Tej Bahadur Sapru : There is no joint responsibility with regard to those matters.

Mr. Jinnah : Then how can you have collective responsibility?

Sir Tej Bahadur Sapru : In regard to other matters there will be collective responsibility; in regard to other matters I should not allow the official Ministers to stand up and say they differ from their colleagues.

Lord Reading : In your scheme do you contemplate that the official Ministers should take part in the ordinary way in the discussions of the Cabinet and give their votes and views in the Cabinet?

Sir Tej Bahadur Sapru : Yes. I am making absolutely no distinction; I say that inside the Cabinet they must be at liberty to take part in all the discussions, and to the Legislature they must present a united front; and if the Legislature records its vote against the matter which is within their special charge, then the Ministry does not break down. But I should not allow these official Ministers to speak against the rest of their colleagues in regard to other matters, and similarly I should not allow the rest of their colleagues to speak against the official Ministers in regard to their matters.

Lord Reading : Is there not this difficulty? I only want to understand it. If the official Ministers' policy is impugned in any way, and there is a vote against it, as I follow it in your view, the Cabinet—I call it a Cabinet to distinguish it from the official Ministers—does not resign and is not affected, and equally the official Ministers are not affected, because they are not responsible to the Legislature.

Sir Tej Bahadur Sapru : Yes.

Lord Reading : But if, on the other hand, a vote is recorded against the Government on an important matter, then it follows that the Cabinet goes and equally the official Ministers go.

Mr. Sastri: Not of repudiating public debts, but of discriminating between classes of debt.

Sir Tej Bahadur Sapru: Well, I am putting it in the extreme form.

Lord Peel: That is the broad effect of it.

Sir Tej Bahadur Sapru: That is the broad effect of it. I am putting it in the extreme form. May I remind you, Sir, that a similar situation has arisen in the other Dominions also, otherwise you would not have made the statutory provisions for the acknowledgment and due liquidation of those debts, including the payment of interest. May I at this stage invite your attention to Section 119 of the South Africa Act?

Chairman: That is the section about security for existing public debts.

Sir Tej Bahadur Sapru: Yes. Section 119 of the South Africa Act says: " The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund." You make provision for that in South Africa, and my recollection is—I cannot lay my hands on that particular section—that there is a similar provision in the constitution of Australia; but may I at this stage invite your attention to a section of the Government of India Act? You will find there what are the statutory charges provided by Parliament over the revenues of the Government of India. Section 20 of the Government of India Act says: " The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the Government of India alone. There shall be charged on the revenues of India alone—(*a*) all the debts of the East India Company; and (*b*) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act; and (*c*) all expenses, debts and liabilities lawfully contracted and incurred on account of the Government of India; and (*d*) all payments under this Act except so far as is otherwise provided under this Act.

Now, I venture to think that it should not be beyond the scope of British statesmanship and British draftsmanship to have a clause in the statute acknowledging in the most explicit terms India's liability to pay those debts and the interest on those debts. Of course, the question may have to be examined; for instance, if Burma goes out it may have to be examined as to whether India should be saddled with the responsibility for the Burmese war. Similarly I suggest that we may have to examine some financial questions. Take, for instance, the capitation charges which used to be a very live issue in the Government of India during Lord Reading's time. I do not know whether it has been much alive since then.

Mr. Jinnah It is, very much.

Lord Peel It is running very strong, I believe.

Mr. Jinnah · Sir Tej, there is a dispute pending now.

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ime the India Office
nuch troubled with
Rifles I will not
to deal with it and
nay respectfully do
State and also the
ex-Secretary of State that that case, if you study it carefully, will show you what in truth is the power of the Great Mogul of Whitehall—the case of the South Persia Rifles I had to deal with that at great length, but I will not indicate it to you at great length.

Subject to those questions, I do declare that you will find every decent man in Indian politics standing by, not merely morally but legally, the liability which he will inherit from the Government that will go out I do declare that

Similarly, with regard to the credit and stability of the country, you will be pleased to remember that in my opening speech at the Conference I said, if you think that for stabilising or regulating the currency and exchange of the country it is very necessary, as I think it is, that we must have a Reserve Bank established on a non-political basis, what is there to prevent you from bringing into existence such a bank? Well, do not judge of the attitude of India by what has happened in the past if you are prepared to make an advance in that direction.

Diwan Bahadur Mudaliyar On a non-political basis?

Sir Tej Bahadur Sapru · On a non-political basis. I do say that if the proposals relating to the Reserve Bank were turned down four years ago, I believe it was mainly because Indian politicians felt at that time that the question of Dominion Status was a far off dream: but if the question of Dominion Status or responsibility becomes a live issue, why should you assume that Indian politicians would be so perverse as to endanger the credit or the stability of the country, or that they would be opposed to a Reserve Bank in India on the lines on which Reserve Banks are founded in other countries?

As regards pensions, which are in being, or which are maturing, or the salaries or emoluments of the Services, take it from me that there is absolutely no desire to rob anyone of a single penny. You have protected those pensions under the present Government of India Act, and frankly I do want the pensions and the salaries and the other allowances of the Services to be protected, for let me tell you, whatever may be my grievances against the Services, I do recognise their worth, and I do think that if we are going to have Services in future it is worth our while to have contented Services, Services with confidence in their future and which feel absolutely confident about their position. I may be a very strong

critic of the politics of the Civil Service, but I am a great admirer of their capacity, of their devotion to duty and, I say it frankly, of their loyalty to their chiefs, including their Indian chiefs. I have had experience of that. Therefore it is no part of my intention, or part of the intention of any sensible politician, that we should in any measure or in any degree adversely affect the pockets of men who have earned, after meritorious service, their pension, or men who are now serving the country.

Then I come to the question of the service of the future loans and of the credit of the country. I will leave it to Sir Bhupendra Nath Mitra to deal with the technical side of this matter, because I do not want to go beyond my depth, but it seems to me that it should not be difficult for India in future to raise rupee loans within its own borders, or even to raise sterling loans in this country, if its finances are sound, if its constitution is such that the Viceroy can exercise certain emergency powers which may be vested in him to protect the interests of the country in certain extreme cases; and I suggest to you that instead of saying, "No, we shall not transfer finance; no, we shall not give India the power to regulate its own exchange and currency; no, we shall have the Finance Department of the future under the control of an English Minister," it is up to you to explore such avenues as may be open to you so that you may provide proper safeguards for the protection of Indian interests during the period of transition; but on the question of the transfer of finance to the control of the Legislature to be administered by the Indian Finance Minister, let me tell you frankly that we all are agreed on that particular question. If any reasonable suggestions with regard to such safeguards are made by the British Delegations, or by any member of the Government, you may take it that those suggestions will receive the most respectful and earnest consideration on our part; but if the *non possumus* attitude is adopted that Indians may play ducks and drakes with their money, and may bring India down to a state of bankruptcy, my answer to it is that you never allowed yourselves to be obsessed by fears of this kind when you granted responsible government to Australia; and we know what Australia has done with its finances.

If you could take that risk in the case of Australia, and if you could put up with Australian Ministers in charge of finance, for heaven's sake, I say, do have some courage and put up with your Indian Ministers as well. You will find that the calculating instinct of the Indian Finance Minister will be much more solid than that of the Australian Minister has been in the past.

I have dealt with many of the heads which His Lordship, the Lord Chancellor, laid down in his opening speech this morning. I will now briefly refer to the last point, namely, the position of the Governor-General.

The Governor-General is the representative of the Crown. As the representative of the Crown he is generally styled as the Viceroy of India, though the expression "the Viceroy" does not find a place in the Government of India Act. I should like him in future

to be a properly constituted Governor-General and Viceroy of India. I believe he will have to discharge many functions as a Viceroy in relation to the Indian States in future, as he does at the present moment

On a matter like that I should like to know the view of Their Highnesses the Indian Princes. But I have no doubt whatsoever that the Viceroy of India, or the Governor-General of India, will continue to be appointed by the Crown. According to my scheme, he will be the constitutional Viceroy so far as subjects under the control of a responsible Ministry are concerned. He will be an extra-constitutional Governor-General so far as reserved subjects or Crown subjects are reserved during the period of transition. For I anticipate a period to be reached, not in the distant future but in the near future, when nearly all the subjects, if not all, possibly all, may have to be brought within the Federal list Indeed, so far as the Crown subjects are concerned the true view that in my humble judgment should be taken of them is that they are also a part of the Federal subjects, only they have been reserved for the control of the Crown during the period of transition. I recognise that so long as they are reserved for the control of the Viceroy they must be protected by the Viceroy as the last authority on those subjects.

It may be urged that there may arise occasions in the course of the administration which may call for the direct intervention of the Governor-General. I am fully aware of that Take, for instance, the question of law and order. It is possible to imagine a state of things arising in India, in the heat of a political agitation, carried on on an extensive scale, when the whole safety of the Government and of the country may be imperilled and when it may be that the Ministers may not have sufficient support through the Legislative Assembly. I can quite conceive such cases. Frankly, I again say for the period of transition, until experience has been gained, until ministries have consolidated that position, until the Legislature has settled down to constructive policy, I should not hesitate to give the Viceroy certain powers to step in to prevent the machinery of government from getting out of gear, or to cope with any critical occasion which may arise in the administration of the country.

These emergency powers should in my humble judgment be clearly specified and should be used only when the proper occasion arises. Speaking again of law and order, I will say that the true
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tain law and order, at any rate, much better than the pre[illegible] Government of India has been able to do with all its accumulated experience of administration

I therefore earnestly appeal to our colleagues of the British Delegations to think over this question of responsibility carefully, for the time has long since passed when it was possible for you to

say: Well, we shall give you responsibility in the Provinces, and then the next step will be responsibility at the Centre. Let me tell you that India is passing through a grave crisis at the present time. I have no doubt that the best informed person probably in this room is the Secretary of State who probably receives daily telegrams. But do not forget that 80 or 90 per cent. among us who are here are also receiving every week letters and messages from our own countrymen.

Mr. Sastri: Not all of them untruthful because they are unofficial.

Sir Tej Bahadur Sapru: Quite right. It is no credit to any Government, much less to the British Government, that at this juncture there should be 50,000 to 60,000 men in jail. I hope, if I am wrong, Mr. Benn will correct me. Some of them are men whom we have held in the highest possible esteem; some of them are the dearest and nearest to us. They are girls, boys, men, old men; they are in jail at the present moment. It may be that they are misguided in their methods, but, frankly speaking, I am not talking on behalf of the anarchical section, but I do speak of the vast majority of them from whom I differ as to their methods. They have borne upon themselves all the suffering and all the humiliation, because they have lost faith in the intentions of England. The question before you is: Will you be able on this occasion to restore their faith?

I will ask you therefore to consider this question very seriously. As a civilised government, as a leading government in the world, as a government who have been more responsible for the development in the world of freedom and responsible government, you cannot afford to say at this juncture: "No, we can run India for another twenty or twenty-five years even as it is." You will not be able to run India, let me tell you frankly, by the ordinary law of the land, and it will be a matter of shame to your government, if it will be a matter of pain to us, that you should have, day in and day out, to pass ordinances or establish military government in India. I am absolutely frank and sincere with you, and I will beg Lord Reading and Lord Peel not to misunderstand the spirit in which I am speaking. I am holding out no threat; I am holding out absolutely no kind of threat. I am speaking with the greatest sincerity of which I am capable. The thoughts of our young men and of our young women are running in dangerous channels. They have already condemned us as traitors to the country; they believe we are weak-kneed persons who have come here to bask in the sunshine of the Secretary of State and the Prime Minister, and enjoy their hospitality. Personally speaking, I feel we are far more interested than you can be in the condition of India at the present moment. It is to us a matter of pain and a matter of regret that girls and boys, who should be doing their work in colleges, should be rotting in jail.

I therefore appeal to you to think over this matter frankly. It may be that even if you give us all that I have asked, our task may

be difficult when we go back to India. Some people in England have asked me frankly: Will you be able to work this constitution? What will Mr. Gandhi's attitude be? What will be the attitude of the men who are pursuing civil disobedience? You have got no following in the country. Well, if I were a bitter man, I would say to you, if that is your attitude: I wish you joy of your Gandhi and your Jawaharlal. I say the time has not come when you can at once restore the confidence of the people and enable us to fight the disruptive elements in our own country. But, if you do not enable us, if you do not put us in that position, then, whatever constitution you may give, howsoever well intentioned you may be, whatever your intentions may be for the future, frankly I think the position in India is such that I cannot, as a patriotic Indian, as one who knows the temper of my country and who knows the temper of the youth of the country, feel happy at all, either about England or about India.

It is on these grounds, Sir, that I make an earnest appeal to you to discuss with us the question of safeguards as carefully as you like, but not to adopt a *non possumus* attitude so far as responsibility at the Centre is concerned. I believe it was one of your greatest statesmen, Mr. Gladstone, who once said: "The only cure for distrust is trust." I believe there is enough statesmanship in England at the present moment to tide over these technical questions, and to face the situation as it is: to save the situation not only for yourselves but for us first and foremost. I have nothing more to say, Sir.

Chairman: Sir Tej Sapru, I am sure that I am interpreting the wishes of the whole of the Committee, and certainly my own, when I express to you our thanks for your helpful and luminous speech.

Lord Peel: I do not want to take part in the debate; I only want to ask a question to elucidate one point in the very clear statement of Sir Tej. I may say I have heard a good many very clear statements from him before. It was on the question of responsibility, which was one of the points on which he was invited by the Lord Chancellor to address us. That was this. You talked about an adverse vote of the Legislature. I want to know about two points, if you will allow me to put them. One is: Does Sir Tej mean an adverse vote by both branches of the Legislature, or is he going to distinguish between an adverse vote of either House. Secondly, may I ask this: Does he say that a majority of one is going to turn out a Government, or does he draw any distinction between a majority vote and a larger vote, or two-thirds, we will say.

Sir Tej Bahadur Sapru: I must apologise to you, Lord Peel, and the other members of the Committee for having by accident overlooked this. I intended to deal with it, but I can give my answer to you in two minutes. According to my scheme, I would make the Executive responsible to both the Legislatures together. There are precedents for that to be found in constitutions. As I said on a

previous occasion, I would not allow a vote of no-confidence to be accepted as a decisive vote unless it consisted of two-thirds, or three-quarters, or whatever you like, of the members. I have not made up my mind on that, but it would be of the members of the two Houses taken together.

Lord Peel: That is to say each House must condemn the Government by a three-quarters or two-thirds majority.

Sir Tej Bahadur Sapru: No, a joint session.

Lord Peel: They would be invited to come into a joint session?

Sir Tej Bahadur Sapru: The procedure I have in view is this. Let us assume that a member of the Lower House intends to move a vote of no-confidence, or a member of the Upper House intends to move a vote of no-confidence. The moment that is notified, I should call a joint session of the two Houses, just as is done in the Czechoslovakian constitution, after examination by a Committee for a week or so; that is the procedure then. Then if the two Houses meet together and by a majority of two-thirds or three-quarters, whichever may be determined, have come to the conclusion that the Government of the day must go out, then the Government must go out. But if that majority is not reached, then the Government continues to stay in.

Similarly, I would say in regard to legislation that you may provide that if a certain majority is reached that legislation will be passed, but if that majority is not reached the law drops. There are precedents for that to be found in other constitutions, and I refer in particular to the new German constitution, where there is a section to this effect.

Sir B. N. Mitra: Does not that refer to a difference between the two Houses?

Sir Tej Bahadur Sapru: No, it is with regard to legislation. With regard to the Budget, it is possible to provide safeguards. In Japan, for instance, there is the safeguard that if the Budget is thrown out or not carried, last year's Budget automatically comes into force. Some such safeguards can be arrived at, and I beg you to discuss the question of safeguards, a discussion in which you will find we shall all be very willing to take part. I have refrained from going into that matter because I did not think the issue was immediately before us.

Lord Peel: It might happen that the Lower House had a two-thirds or a three-quarters majority, counting the votes against the Government, while the other House might come in and save the Government—or it might be the other way round. In such a case would not you find some difficulty in passing your legislation through a House which, so far as it was itself concerned, had decisively condemned the Government and which wanted to turn it out? Would not you have difficulty in carrying ordinary legislation or business through that House?

Sir Tej Bahadur Sapru: I do not think so. We must be prepared for some difficulty at times in regard to financial matters—

questions of taxation and things of that sort—but with regard to ordinary legislation on civil or criminal matters, or ordinary administration, I frankly think there will not be difficulty and I base that on my own experience in the past.

Sir Akbar Hydari: The Home Member will be responsible for Law and Order in the Federal Executive, I imagine, but what would he have to do so far as Law and Order are concerned in the Indian States?

Sir Tej Bahadur Sapru Nothing The Home Member's writ would not run in Hyderabad.

Sir Akbar Hydari I should like a proper reply, if you do not mind. The Home Member would be responsible to the Federal House for his measures with regard to Law and Order They would be measures which would be discussed and decided on in the Federal House, where the Indian States would be represented

Sir Tej Bahadur Sapru · May I point out to you that Law and Order is not a Federal subject, in the sense in which we have used that word.

Sir Akbar Hydari I want to be clear in my own mind as to what would happen with regard to the Home Member and subjects coming under Law and Order

Sir Tej Bahadur Sapru Law and Order in British India has nothing to do with the Indian States, but according to my scheme, if the Home Member is turned out it must be by a joint session of the two Houses.

Sir Akbar Hydari You say Law and Order is not a Federal subject. Does that mean it would not come before the Federal Legislature but before some other Legislature, or what would be the position?

Lord Reading There is only one Legislature.

Sir Akbar Hydari Where would Law and Order come?

Sir Tej Bahadur Sapru Before the Federal Legislature, as a British India subject.

Sir Akbar Hydari: Excluding the Indian States' portion of the Federal Legislature? It will be debated there?

Sir Samuel Hoare. If the question is debated there, Sir Tej, and we assume for the moment the States are not concerned, and the Government falls upon it, then the Government falls with, presumably, the representatives of the States in the Government?

Sir Tej Bahadur Sapru: Sir Samuel, we have not yet discussed the question of whether the Indian States will take part in the discussion of subjects which are purely British India subjects, or whether they will impose on themselves a self-denying ordinance That has to be argued, and I am open to argument on that point

Sir Samuel Hoare: I do not see how, by any decision on that point, you get away from the difficulty to which I have referred. A Government may fall on a question of Law and Order—which is

the kind of question on which governments do fall—which concern only one part of the Federation, while the other part of the Federation are equally members of the Government and have no concern in it.

Sir Tej Bahadur Sapru: I should very much like to reply to that question after hearing from His Highness of Bhopal and His Highness of Bikaner as to whether they want to have—if I may use the expression—a finger in our pie or not. When I know that I shall be in a better position to answer your question. I want to know what their views are. Their Highnesses may like to think it over.

Lord Reading: But the point would still remain that Sir Samuel has put to you; it is a difficulty which we have to face.

Sir Tej Bahadur Sapru: Undoubtedly.

Lord Reading: You have got your Federal Executive, and you must, in your Federal Executive have Ministers who are representative of a large part of your Federal Legislature, which would be the Indian States. Then if, so far as they are concerned, any of these questions arose, it would follow, from what you have said before, that their Ministers would fall in the same way as the others when anything happened, though they would have no part in it.

Sir Tej Bahadur Sapru: I fully contemplate that, and am aware of that anomaly; but I should like to know what Their Highnesses think of it.

H.H. The Nawab of Bhopal: May I ask, Sir Tej, whether you have any objection to our having a finger in your pie?

Sir Tej Bahadur Sapru: If you ask for my individual opinion I would say I have none. On these critical occasions I would not have you on a separate footing.

H.H. The Nawab of Bhopal: Then, as far as you are concerned, we should be delighted to come in.

H.H. The Maharaja of Bikaner: We do not want to meddle in your purely domestic affairs, any more than we want you to meddle in ours. But there will be a Federal Executive, and the fall of the Government will be the fall of the Federal Executive, and therefore the only House that can throw out the Government will be the Federal House, and in that the representatives of the States in the two Federal Houses, as well as your representatives, will have to take part, so that they will have to have a finger in the pie to that extent at least, so far as the fall of the Government is concerned.

Sir Tej Bahadur Sapru: If I may respectfully say so, Your Highness has completely expressed my views on the question.

H.H. The Maharaja of Bikaner: And to that we shall be quite agreeable.

Mr. Sastri: But the matter is not quite free from difficulty, Your Highness, and the answer just given on this side must not be taken as binding on us. The question is not free from difficulty.

H.H. The Maharaja of Bikaner: We ought to discuss it further.

Sir Akbar Hydari I do not want to have a finger in their pie, nor do I want them to have a finger in mine so far as Law and Order is concerned. What I wanted to know was whether even these questions would be discussed and debated and resolutions taken on them in the Federal House in which we are both represented. I did not go so far as to come to the question of the fall of the Government.

Sir B. N. Mitra: What you mean, Sir Akbar Hydari, is this: will the Federal House be allowed to move a resolution relating, say, to a case of breach of Law and Order in Hyderabad territory?

Sir Akbar Hydari: Or, *vice versâ*, whether there will be a question with regard to a breach of Law and Order in Bengal which the Hyderabad representatives will be allowed to discuss.

Sir B. N. Mitra: That has been answered, and the answer in both cases is in the negative. But when it comes to a question of the Ministry falling, on that point Sir Tej has expressed his view that the whole House will come in

Lord Reading: Sir Tej, would you give us one further explanation on a matter which is not clear to me I thought, from something you said, you had contemplated a definite course of procedure on Law and Order. From what you have said just now it would follow that if a question of Law and Order arose in the country—I assume you mean something which was not a purely provincial matter but something in relation to Law and Order which has a wider range—the Central Legislature would deal with it and it would come up for discussion and they could express their views on it, and it would be dealt with by the Federal Government. But I gathered, from something you said earlier, that over and above that there would be an emergency power in the Viceroy to deal with Law and Order when the safety and tranquillity of the realm are threatened.

Sir Tej Bahadur Sapru: I contemplate that, Sir, on the Japanese model.

Lord Reading: It is hard to keep firing these questions at you, Sir Tej, but you have made, if I may say so, such a very interesting and lucid speech on the whole subject that I should like to have an answer to this point also, so as to be able to consider everything you have said. What part do you contemplate that the Viceroy or Governor-General should play in the Cabinet? That is left rather in doubt, at any rate to me. According to your view, is the Viceroy to be entirely excluded from Cabinet discussions, or is it intended that he should be present, or can he preside? Have you contemplated that at all?

Sir Tej Bahadur Sapru: Yes, I have had that question under constitutional position? I want it to be distinctly understood that is only fair that the Viceroy should preside, because the ultimate responsibility rests with him. With regard to other matters, I should like him to keep out but to have the power of asking for

information, a power which certain constitutions do give to the Head of the Government, whether he be a monarch or a president, namely, that the Ministry shall keep him in touch with everything that is going on from day to day.

Sir Samuel Hoare: Is not it going to be, as a matter of practical working, very difficult to have this in and out system for the Governor-General? I do not at all know how the Executive Council is worked in India——

H.H. The Maharaja of Bikaner: The Viceroy presides.

Sir Samuel Hoare: May I just finish? That is not my point. Taking the Cabinet here, you do not have things in water-tight compartments in that way. The discussion may be on a War Office subject and then pass to a Home Office subject, and so on. I should have thought it would be very difficult for the Viceroy to come in when the Cabint was talking about the Army, and then to go out when they talked of something else and then to come in again. It is a very awkward position.

Sir Tej Bahadur Sapru: I do not think it is a matter of very great difficulty. For instance, a certain day will be fixed, according to the rules, when subjects relating to the Army and other matters will come up for discussion, and then the Viceroy should, as of right, come and preside over the Cabinet. But, when those matters are not under consideration, and it is a question of ordinary civil or criminal laws, or of questions relating to public health, education or international conventions, then the Prime Minister must preside, and I would give the Viceroy the power to call for reports from his Government, so that he may be kept in touch with the progress of events from day to day. I do not think there is any serious difficulty with regard to that. Under the present system, the Viceroy presides over meetings of the Executive Council, except when he is absent from the capital, in which case the Vice-President presides; but if the new constitution, as contemplated by me, comes into force I say it will be more constitutional for the Viceroy to keep out of the discussions which take place on matters which have been transferred. But, Sir Samuel, I should like to be permitted to say one thing. The personality of the Viceroy counts for a very great deal, even in the Dominions. Whatever constitution you may provide you cannot exclude the moral factor. The Viceroy will play a very great part in the development of the constitution by the exercise of his moral authority and the moral weight of his advice.

Sir Samuel Hoare: The difficulty that appears to me is that the position is so very different from that in a Dominion. By your own showing, you assume exceptional emergency powers for the Viceroy. Well, that seems to me to make a very great distinction—that if a Viceroy is going to exercise his emergency powers effectively, he must be in much closer touch with his Ministers than a Dominion Governor-General who has no such powers.

Sir Tej Bahadur Sapru: He will be in constant touch with his Ministers. He will be getting the files from day to day, he will be getting the official reports of the proceedings of his Government, and

if the occasion should arise when he must exercise his emergency powers then he can certainly call the Cabinet and say, "Well, I think an occasion has arisen when I must exercise emergency powers." I do not think that there will be any difficulty in arranging those things

Sir B N. Mitra: In fact, that is so even under the present position, as the Marquess of Reading said himself. Apart from Cabinet meetings, the Governor-General sees every one of the members of his Executive Council at least once every week, and during those interviews he is kept in touch with all important matters which are happening in regard to that particular Department; and under Sir Tej Bahadur Sapru's system I assume that that contact will continue in the new constitution

Lord Reading: Well, that is an important matter to understand.

(*The sub-Committee adjourned at 5.5 p m*)

PROCEEDINGS OF THE FOURTEENTH MEETING OF SUB-COMMITTEE No. 1 (FEDERAL STRUCTURE), HELD ON 5TH JANUARY, 1931, AT 11 A.M AND 2 45 P.M.

Chairman. Your Highnesses, My Lords and Gentlemen, before we begin our proceedings to-day, there are two events to which I am sure you will allow me to draw your attention for a few brief minutes

First of all, I am sure we should all desire to tender our respectful sympathy to the King-Emperor in the loss that he has sustained by the death of his sister, the Princess Royal

Then I think it is fitting that we should place on record this morning our appreciation of the loss which not only this Conference, but his native land also, has sustained by the death of our colleague Maulana Muhammad Ali. He was a well-loved leader, who, both by thought and action endeavoured to advance the policy which he thought best. It is pathetic to remember that he has passed away far from his home, in a last endeavour to serve his fellow-countrymen by word and deed. It was my privilege to visit him, at his request, on his deathbed. He was in a state of great weakness and great weariness, but he had no thought for himself; his hopes, his wishes and his ambitions were first and last and all the time for India To many of us round this Table he will be recollected as a fellow-member of the University of Oxford who lived and suffered for his ideals. To the gracious lady, his wife, and his brother who accompanied him to this Conference, we extend our respectful sympathy, and for him it is our hope and prayer that his eager and ardent spirit has found the peace and rest which he has so well earned and so richly deserved.

Sir Muhammad Shafi: My Lord Chancellor, on behalf of the Muslim group at the Round Table Conference I desire to offer to our

King-Emperor our loyal and respectful sympathy in the great loss which he has suffered in the death of the Princess Royal.

If I may, I join also in the eloquent tribute which you have paid to the memory of our colleague Maulana Muhammad Ali, whose love of his country and enthusiasm for the cause for which he suffered throughout his life induced him to undertake this long journey of six thousand miles, in spite of his failing health, in order to serve the cause of his country. To his widow, his brother, and the other members of his family our hearts go out in the fulness of sympathy in this sad bereavement; and I trust that Your Lordship will convey to them the sincere sympathy of all of us on this sad occasion.

Sir Tej Bahadur Sapru: My Lord Chancellor, I would like to associate myself with the message of respectful sympathy which you propose to send to His Majesty the King-Emperor in the loss of his sister.

Coming to the death of our departed colleague, I can say that my memory goes back some thirty years ago when, as a graduate from Oxford, he returned to India and stayed for a few months in Allahabad. I had known him even before that, when he was a student at the Aligarh College. After his return to India he tried to sit for the law examination at Allahabad, and I remember the afternoons he used to spend with me in the study of law. Since then our acquaintance grew into friendship, and, although it may have been my misfortune at times to differ from him in politics, I have always recognised that his was a most vivid and forceful personality, the impression that he has made on Indian politics during the last twenty years is deep, and, I venture to think, will be lasting. Of him we can truly say that he has died in the service of the Motherland. He and I travelled together to England on the same boat, and to me it was a matter of pain and anxiety that he should have taken this daring step of coming across the seas. But right through the voyage he was sustained by the hope and by the belief that at this supreme juncture in our history, duty required that he should be at the capital of the Empire to plead the cause of his Motherland. I would respectfully associate myself with what has fallen from Your Lordship and my friend Sir Muhammad Shafi in regard to the great calamity which we have sustained and would like our heartfelt sympathies to be conveyed to his widow and his brother.

H.H. The Maharaja of Bikaner: My Lord Chancellor, on behalf of the Princes and other members of the States Delegation, I desire first to associate ourselves most respectfully with the message conveying our humble sympathies in the great sorrow suffered by our beloved King-Emperor and the Imperial House of Windsor by the sad and sudden death yesterday of the Princess Royal. To us, the Princes and people of the Indian States, anything connected with His Majesty the King-Emperor personally as a matter always of very genuine and deep concern; for in all our sorrows and our joys we know, and we have the great consolation of knowing, that we can

always depend on His Majesty's and Her Majesty's gracious interest and solicitude.

I similarly associate myself wholeheartedly in desiring a respectful message of our sympathy to be conveyed on the sad death of Maulana Muhammad Ali to his widow, his brother, and the other members of his family. As Sir Tej has said, there were times when it was not possible for everyone to agree with his policy, but I have had the privilege of knowing the late Maulana personally and of claiming him as a friend, and we who knew him recognise how much there was lovable in his personality and his character. It is unnecessary for me to refer to it at length, but I think all will [illegible] of which all Indians [illegible] to take part in this [illegible] in the history of our country, when he knew in his own heart that it was practically impossible for him to return to his native land.

Lord Reading: I desire to be associated with the expression of sympathy with His Majesty the King-Emperor in consequence of the death of his sister, and I hope also that you will take care to [illegible] Committee with the expressions [illegible] Maulana Muhammad [illegible] the vivid and force- [illegible] ever came into personal contact with me until I met him in this country. I knew of his existence and, of course, of the great strength with which he gave expression to his convictions in India, which no doubt occasionally caused us trouble, but at this moment our thoughts are filled with admiration for the courage of the man, who insisted, notwithstanding the very serious state of his health, on coming to this country in order that he might take part in the struggle for the constitutional advance of his Motherland, and who has at any rate had the consolation of dying in that struggle for a great cause, in which he had implicit faith.

Lord Peel: On behalf of my colleagues and myself, I should like to associate ourselves most sincerely with what has fallen from the Lord Chancellor with reference to the loss that His Majesty the King Emperor has sustained, and I very much desire to join in the expression of feeling which has been so eloquently voiced in various quarters to-day, and to say how much we sympathise with the widow a[illegible] Maulana Muhammad Ali. I can[illegible] with our late colleague, b[illegible]tions and his personality, [illegible] how deeply we admire [illegible] pass over his very grave physical disabilities and [illegible] here to take a manful part in this Conference, which was, of course, of such deep interest to him and is of such interest to his fellow countrymen.

(The members of the sub-Committee stood for a few moments in silence.)

Chairman : The Secretary of State for India, as you have already seen, has written an appreciation of the late Maulana Muhammad Ali which appeared in *The Times* to-day, and he does not wish to add anything to the tribute which he has already paid him.

Sir Muhammad Shafi : We have now reached a stage in our deliberations which undoubtedly calls for the exercise of farsighted statesmanship, high courage and broadminded sympathy in arriving at a satisfactory solution of the many problems which you, Sir, have placed before us, if I may say so, with your usual lucid and analytical method. We have to bear in mind not only the constitutional principles which must have a prior application in framing a constitution for India, but also the actual existing political conditions in that country. The world influences set into motion by the great war, and the forces which have been in operation in that country during the last ten years, the widespread and deep dissatisfaction with the existing constitutional position, and a succession of grave blunders committed during the last ten years, commencing with the Rowlatt Act and the proclamation of martial law in the Punjab, and ending in the exclusion of Indian representatives from the Statutory Commission, produced a very grave situation in India, a situation the picture of which was drawn in such tragic but correct language by my friend Sir Tej Bahadur Sapru towards the conclusion of his speech the other day.

There is one aspect of that situation to which I desire to invite the attention of this sub-Committee. There are numbers of conferences, leagues, sabhas and anjumans, organisations representing various schools of thought and the various communities in India, with objects and aims of their own; but when you come to analyse the actual existing position in India there is no doubt whatever that political India can now be divided into two main sections: the section of India, which is of recent origin, which aims at complete independence for the country, and the section which, with due safeguards for the interests of the minorities, aims at complete self-government for India within the British Commonwealth of Nations.

Unless those of us who have come from India, in pursuance of that policy of co-operation which has been our guiding principle throughout our political lives, in order to assist at this Round Table Conference in the great task of framing a new constitution for India can go back to our country with something substantial to show to our countrymen as the fruit of that policy, I am afraid that a very grave situation will arise. I want this sub-Committee to bear that important fact in mind when deliberating over the constitutional problems which have been placed before us.

I said that one of the causes which have created the very grave situation in India that exists to-day is the widespread and deep dissatisfaction with the existing constitutional situation that exists throughout the length and breadth of India. Now, what is that consideration. For instance, when Crown subjects are dealt with it

in the observations that I am going to offer in this connection I have in mind merely the impersonal side of the question. My remarks do not apply to any individual holders of any of the responsible offices to which I shall refer.

A comparative study of the provisions in the Government of India Act of 1919, to which Sir Tej Bahadur Sapru made a reference in his speech, makes it abundantly clear that the Secretary of State is undoubtedly, as my friend described him, the Great Mogul of the British Indian Empire. It is true that in theory he owes responsibility to the British Parliament, a Parliament which is the trustee for the welfare and happiness of 310 millions of His Majesty's subjects in India, but as a matter of fact what happens?

Once in twelve months the Secretary of State presents to the British Parliament his annual statement containing a review of the administration in India. He is followed by, perhaps, half a dozen members of the British Parliament who take an interest in the affairs of India, and these gentlemen offer a few observations upon the statement thus presented by the Secretary of State to Parliament. More often than not the speakers on that occasion, including the Secretary of State, address empty benches in the House of Commons; possibly the necessary quorum is all that is present on that occasion. During the rest of the year, now and then some honourable members put a question or two to the Secretary of State To some of these questions the Secretary of State gives a reply, to others he declines to reply, on the ground that in the public interest it is not desirable to answer the questions That is the manner in which the British Parliament discharges its trust towards the 310 millions of His Majesty's Indian subjects, and that is the matter in which the Secretary of State discharges his responsibility to Parliament.

There is one other little fact to which perhaps in this connection I may invite the attention of the sub-Committee While the Viceroy and Governor-General of India, on landing at Bombay, has to take an oath of office which is administered to him by the Chief Justice of Bombay in the presence of his Cabinet, I believe no oath of office is administered to the Secretary of State *qua* his position as Secretary of State when he assumes charge of his high office.

Lord Reading. But is it to any other Minister? I do not quite follow. Is it suggested that is an exception with regard to the Secretary of State?

Sir Muhammad Shafi: No, to no Secretary of State is an oath of office administered *qua* his position as Secretary of State: that is what I understand.

Lord Reading: He has already taken the oath as a Privy Councillor.

Sir M. Shafi: As a Privy Councillor, yes, in common with other Privy Councillors who do not hold any office at all; but *qua* his position as Secretary of State no oath of office is administered to him

In these circumstances I am justified in saying that although in theory the Secretary of State is responsible to Parliament yet in reality he is the irresponsible ruler of India. From a study of the provisions embodied in the Government of India Act, to which Sir Tej Bahadur Sapru invited the attention of the sub-Committee, it is clear that the Secretary of State has the power to overrule, if he so thinks fit, even the unanimous decision of the Governor-General in Council, and during my experience, extending over $5\frac{1}{2}$ years in the Government of India—six months more than the normal period of office of a member of the Viceroy's Executive Council—I have known instances in which he has actually done so. He has actually done this not only in regard to matters of high policy, in matters concerning the Army and such vital subjects as that, but even in regard to matters of internal civil administration in India. I remember that some time in 1922, towards the end that year, a list was framed of the cases in which the Secretary of State had interfered after the introduction of the Montague-Chelmsford Reforms—that is to say, during a period of little less than two years. The list was, I can assure this Committee, a somewhat lengthy one. I will not say anything further. That is the position in India in the existing Indian Constitution in so far as the Secretary of State is concerned. He has, no doubt, a Council, consisting mainly of retired members of the civil and military services in India, but that Council is purely an advisory body.

Coming now to the Viceroy and Governor-General of India, the Viceroy as such has no position under the Government of India Act. There he appears as Governor-General, or Governor-General in Council. As Governor-General he has certain extraordinary powers in regard to restoration of grants, in regard to certification, and so on; and, of course, he is the executive head of the Government in India. Although it may appear from a perusal of the language embodied in one of the sections referred to by Sir Tej Bahadur Sapru, that his power as Governor-General is very great, yet a reference to Section 2 makes it perfectly clear that he can exercise those powers subject only to the superintendence and control of the Secretary of State. In India a practice has been in vogue for some years of private telegrams between the Governor-General and the Secretary of State, private not in the sense that either the Secretary of State or the Governor-General pays for them, it is the Indian taxpayer who pays for those telegrams—but private in some other sense. Well, no member of the Cabinet of the Governor-General knows anything as to the contents of those telegrams. I dare say if these telegrams were to be perused they would now and then disclose a clash of personalities.

Mr. Sastri : Are they also commonly described as private and personal?

Sir Muhammad Shafi : Yes, private and personal.

Sir Tej Bahadur Sapru : They were discussed at great length by Sir Austen Chamberlain in the Mesopotamia Report.

Lord Reading : Yes, they were.

Sir Tej Bahadur Sapru : That is a matter of public knowledge.

Sir Muhammad Shafi : As I was saying, if these private and personal telegrams were to be persued, I dare say they would occasionally disclose a clash of personalities—a powerful Secretary of State influencing the Viceroy, and a strong Governor-General influencing the Secretary of State. Well, the result of these private and personal telegrams is that a day or two at least before a case is put up before a full meeting of the Executive Council, what must in fact amount to a previous decision has already been arrived at between the Secretary of State and the Governor-General. Then the case is discussed in the Executive Council and a decision is arrived at.

Now, with regard to these cases that are put up before the Executive Council, the position in the existing conditions is this, that if there is a difference of opinion between the member in charge and His Excellency the Governor-General the case must be put up before the Executive Council, or if the Governor-General considers a case of sufficient importance in which policy is to be determined, or on any other ground, he directs that the case is to be put up before the Executive Council; but there are other cases which, when there is agreement between the member in charge and the Governor-General, unless the Governor-General decides otherwise, never come before the Cabinet at all A decision is issued in the name of the Government of India That is the position so far as the Executive Council is concerned.

The members of the Viceroy's Executive Council consist of officials and non-officials. I will take the non-officials first. It was Lord Morley who first introduced that great change in the constitution of the Viceroy's Executive Council which resulted in an Indian being appointed a member of the Executive Council That number was increased first to two and then to three shortly before the introduction of the Montague-Chelmsford Reforms. Now, of the 13 Indian members who have been appointed to the Viceroy's Executive Council up to this time, only three have been selected from amongst the non-official members of the Central Legislature—that is to say, Sir Tej Bahadur Sapru, Sir Narasimheswara Sarma and myself. All the others have been either Indian members of the Services in India, or selected from outside the Central Legislature. When the number of Indian members was raised to three, it will be noticed, shortly before the introduction of the Montagu-Chelmsford Reforms, all the three Indian members appointed to the Viceroy's Executive Council were gentlemen selected from amongst the members of the Central Legislature; but it is very strange that after the introduction of the Montague-Chelmsford Reforms, that practice has not been adhered to. At a certain stage during these ten years it was thought necessary to bring out a financial expert from England to India I have absolutely no fault to find with that step I think that it was rather a step which was, in the circumstances, desirable to be taken, but the unfortunate result of that was that as the Government of India

Act made it necessary to have at least three members of the Services in the Executive Council, one of the non-official Indian seats on the Executive Council was taken away from the non-official and given to a member of the Indian Services. Well, as was pointed out by my friend, Sir Tej Bahadur Sapru, the result of the position which has existed in India during the last ten years, both as regards the Indian members of the Executive Council and as regards the European members of the Council, is this. They have no following in the Central Legislature at all. It is obvious that the members of the Services appointed to the Executive Council have none, and the two Indian members who are appointed members of the Viceroy's Executive Council from outside, not being themselves members of the Central Legislature, and—it is very curious—in one or two cases never having had any experience of the Central Legislature at all, cannot be expected to have any following. The result is, as was described by Sir Tej Bahadur Sapru in his speech, that they have to fall back upon the constitutional position which makes them really independent of the vote of the Legislature. But to my mind the more serious aspect of the position, as it exists in India to-day, is this. Although certain items, according to the Government of India Act, have been made votable—certain items in the budget have been made votable—nevertheless because of the power of restoration which is vested in His Excellency the Governor-General, a power which has been exercised in many cases, and the power of certification, which also vests in the Governor-General under the Government of India Act, which power also has been exercised in many cases, the non-official members of the Central Legislature look upon themselves merely as irresponsible critics of the actions of the Executive Council.

Mr. Jinnah : Are in fact irresponsible, not look. They have no responsibility.

Sir Muhammad Shafi : That being so, the tendency is, very naturally, that they should behave as irresponsible critics only. That is the result of the existing position, and the complications, the deadlocks occasionally, which have actually taken place during the last ten years are but the natural results of this constitutional position. Of course, whenever the Governor-General exercises his power of restoration or of certification, or there is a deadlock, the irresponsible Press outside takes advantage of these incidents, and in glaring headlines articles are published which point out to the political intelligentsia of the country the hopelessness, in so far as they are concerned, of the existing regime. One of the causes which have contributed towards the creation of the grave situation in India is this widespread and deep dissatisfaction with the constitutional position as it exists to-day.

What, then, are the remedies which ought to be adopted by the Round Table Conference in order to put an end to this deplorable state of things? In this connection, the opinion which I am going to offer for the consideration of the Committee must be considered to be subject to one condition precedent, and that condition

precedent is the provision which, I venture to submit, must be embodied in the constitution for adequate safeguards to the minorities and in particular to that most important and most numerous of all minorities in India, the Muslim community, which some of us here have the honour to represent. Those safeguards have been discussed in the Minorities Committee, and therefore I will not touch upon them here. Subject to these safeguards, in my opinion, beginning with the Secretary of State, it is necessary that the Secretary of State's superintendence and control over the internal civil administration of India should be taken away.

My Lord Chancellor, we are all agreed that certain reservations will have to be made during the transitional period Of course, with regard to those reservations the power of superintendence and control possessed by the Secretary of State, with responsibility to Parliament, will have to be provided for in the new constitution

We are all agreed that certain reservations in regard to certain vital matters must be provided for in the new constitution for the transitional period, and the inevitable result of that will be that the Secretary of State's power of superintendence and control over the Government of India, over the Governor-General in Council and the Legislature, in so far as those reservations are concerned, must continue; but any power of superintendence and control which he at the present time possesses over the remainder of the subjects must be taken away. The Government of India should thus become mistress of her own household in so far as the non-reserved subjects, if I may use that expression, are concerned.

Personally I hold the view, and I believe it is the view held in almost all political circles in India, that the India Council should be abolished. The Secretary of State has at his disposal other sources of advice, if any advice is needed, with regard to the subjects, army, foreign and political, which advice he can always have, and, as a matter of fact, some of us know that he does obtain even in the existing conditions

Coming to the Governor-General and his Executive Council, the first question to be decided is how far the element of responsibility should be introduced, for on that will depend the proper constitution of the Executive Council itself. I agree with Sir Tej Bahadur Sapru that for the present and during the transitional period, defence and foreign affairs should remain reserved subjects, and the members of the Viceroy's Cabinet in charge of those subjects should be selected by the Viceroy, the Governor-General, himself. There should be no limitation in the constitution as to the sources from which that selection is to be made by the Governor-General It should be left entirely to his discretion to select the members of his Cabinet in charge of these subjects, either from the Services or from the political life of the country, as he thinks fit.

As regards the remainder of the subjects, they should be in charge of members of the Cabinet selected from among the non-official members of the Central Legislature; and, for the due administration of those subjects, these members should be responsible

to the Central Legislature. In other words, while the members in charge of reserved subjects will be responsible to the Governor-General for the proper administration of those subjects, the members in charge of the transferred subjects will be responsible to the Central Legislature for the proper discharge of their responsibilities.

Here arises the question of joint responsibility which my friend Sir Tej Bahadur Sapru discussed during the course of his speech. I regret that I cannot agree with him in the opinion which he expressed in this connection. It seems to me that joint responsibility in the case of a Cabinet, a portion of which is responsible to one authority and the other portion is responsible to another authority, is not only impracticable, but is unjustifiable on any constitutional or other grounds. If I may say so, it is a farce to have members in charge of the reserved subjects also resigning along with members in charge of the transferred subjects if a vote of censure is passed by the Legislature with regard to any vital question arising in connection with the transferred subjects, or any vital measure introduced by any of the members in charge of the transferred subjects being rejected by the Legislature. To my mind that is not only a farce but it will produce unnecessary complications and difficulties. Going out along with his colleagues and coming back again next moment along with a fresh batch of his colleagues, is neither befitting the dignity of a member of the Viceroy's Cabinet in charge of reserved subjects, nor will it serve any purpose whatsoever. It seems to me that the proper and logical principle to adopt is that there should be joint responsibility in so far as the members who are in charge of all the transferred subjects are concerned. If any one of them is defeated on any vital measure, or if a vote of censure is passed by the Legislature against any one of them, all of them must go; but to require that the member in charge of the reserved subjects also should go along with them is to my mind not justifiable on any ground whatsoever.

Sir Tej Bahadur Sapru : Would you allow the official members and the responsible members to sit together, or will you only have dyarchy in the Central Legislature, one section of the Ministry not having anything to do with the other?

Sir Muhammad Shafi : No, what I would adopt is the practice which was recommended by the Joint Select Committee of the two Houses of Parliament in regard to this matter in the Provinces, when they introduced dyarchy in the Provinces.

Sir Tej Bahadur Sapru : But as a matter of fact it was ignored in eight provinces out of nine.

Sir Muhammad Shafi : I quite agree it was ignored, except perhaps in Madras, and, I think, possibly in one or two other provinces. It was ignored, but it ought not to have been ignored, and to my mind in the future constitution something ought to be provided so that that recommendation of the Joint Select Committee of the two Houses of Parliament may become incapable of being ignored in the future. That is the remedy for what my

nd Sir Tej Bahadur Sapru contemplates, and not this curious ition of a member in charge of reserved subjects also going out ng with his colleagues, and coming in again at the next moment being re-appointed by the Viceroy to his portfolio. I venture submit that the proper remedy for what my friend Sir Tej hadur Sapru has in view is the adoption of the practice recom- nded by the Joint Select Committee of the two Houses of rliament when the Montagu-Chelmsford Reforms were intro- ced.

Sir Tej Bahadur Sapru : I take it you advocate dyarchy?

Sir Muhammad Shafi : Yes, of course, there is no other way. do not understand why we should fight shy of that word dyarchy". Dyarchy was condemned, I remember, before the nstitutional Enquiry Committee, of which both my friend and were members, not for the reason that dyarchy in itself was some- ing impracticable or open to any serious objection Oh no! I am nvinced that dyarchy was condemned, at any rate, by Indian liticians, on the ground that they wanted full responsibility in e Provinces, and, therefore, were not satisfied with dyarchy. hat do my friend Sir Tej Bahadur Sapru and others who condemn archy contemplate? What did the Simon Commission contem- ate? Did they contemplate then that there should be no respon- bility in the Centre at all of any kind or sort? For responsibility as got to be introduced some day; that is the pledge given by arliament in the Declaration of the 20th August, 1917, the grant f responsible Government to India. Then, if dyarchy is not to be ntroduced, the necessary consequence is this, that some day there ill have to be a change from no responsibility at all to full esponsible Government, which change, to my mind, is too revolu- onary to contemplate

Therefore, the only solution is the introduction of partial res- onsibility in the Central Government now; in other words, with he exception of the reserved subjects, army and foreign affairs, [illegible] all the other subjects should [illegible] rge of those subjects should [illegible] gislature. Of course, it will [illegible] neral with special and extra- [illegible] xtraordinary conditions; that may possibly arise in the future as a precautionary measure. Into the details of those powers it is unnecessary to go; they will prob- ably be somewhat on the lines of the special and extraordinary powers which the Simon Commission have recommended should vest in the Governors of the Provinces; and I agree that the Governor-General will continue to be appointed by His Majesty the King, as has been the case in the past.

As regards the constitution of the Cabinet, I agree with Sir Tej Bahadur Sapru that the Commander-in-Chief should cease to be a member of the Governor-General's Council. That is a view which I have held for a long time; in fact, I came to hold that view after only a few months' experience of the inner working of the

Executive Council. I do not wish to say anything which may be regarded as a criticism on any individual Commander-in-Chief at all; but I do remember a case in which, while we were discussing important matters concerning civil administration, the Commander-in-Chief was busy drawing sketches, and I have in my possession, now in my drawing room, one of those sketches duly framed.

Chairman : Sir Muhammad, I know how difficult it is, and perhaps a rest at this moment would be convenient to you. May I ask if this would be your sort of view? Taking the Federal subjects as scheduled—because you were on the point now of the Executive—should I be right in assuming that there would be at least Members for:—(1) Finance, (2) Law, (3) Railways, Posts and Telegraphs, (4) Education, Health and Lands, (5) Industries, (6) Commerce, (7) Revenue subjects, such as the administration of customs, opium and salt; (8) Minor departments, such as botanical and geological survey and the like; and (9) a Minister in charge of minor administrations, like Delhi and Ajmer. Is that the sort of thing?

Lord Reading : That will make nine Cabinet Ministers.

Chairman : I am not saying they would all be there; I am just giving you the list so as to throw out the suggestion. I will read them once more, if I may, rather more slowly. I am sorry to interrupt you, but it just comes in in what you were saying, and it will give you a rest. Taking the Federal subjects as scheduled, is this the sort of thing? I am only throwing it out. There would at least be Members for: (1) Finance; (2) Law; (3) Railways, Posts and Telegraphs; (4) Education, Health and Lands; (5) Industries; (6) Commerce; (7) Revenue subjects, such as the administration of customs, opium and salt; (8) Minor departments, such as botanical and geological survey, and the like; and (9) a Minister in charge of Minor administrations, Delhi, Ajmer. I am simply giving them as a rough indication of Members and not necessarily as defining portfolios.

Sir Muhammad Shafi : My Lord Chancellor, I confess I have not considered the question of the number of members of the Viceroy's Cabinet who will be required in the new conditions, and therefore I am afraid I cannot express an opinion off-hand.

Chairman : I did not expect you to.

Sir Muhammad Shafi : But what I do think is this, that their number must certainly not be less than the number of members of the Viceroy's Executive Council as it exists at present.

Chairman : That is, they must not be fewer than at present?

Lord Reading : That must be so.

Sir Muhammad Shafi : That is all I can say at present—not less than seven.

Chairman : I thought it just as well to put that point.

Sir Muhammad Shafi : Yes. As regards the portfolio of Foreign and Political Affairs, my view is that there should be a

mber or Minister, or whatever he may be called, in charge of it portfolio in the Cabinet of the Viceroy, the Viceroy himself ng the head of the Cabinet. In other words, the Viceroy should be his own Member in charge of any portfolio.

Sir Tej Bahadur Sapru: Would you allow the Viceroy to side over both sections?

Sir Muhammad Shafi: If you will allow me to finish this part t, perhaps my argument will be clearer. In view of the many occupations of the Viceroy it would be better that he should not self have charge of a portfolio. All important cases from all artments must go to him—what are called, in technical lan-ge, cases of major importance Cases of minor importance are posed of by the Member in charge, but all cases of major import- go up to the Viceroy, and for that purpose the Viceroy gives rviews to the Secretaries of all departments. In view of the that the Members or Ministers in charge will have weekly rviews with the Viceroy, in view of the fact that the Viceroy nts interviews to non-official representatives of the people, in of the fact that much of his time is occupied by the study of s which are to come up before the full Cabinet, and also by tings of the Cabinet itself, and in view of the touring he does ng certain parts of the year, I venture to think that he is not , by reason of his position, to devote as much time to the affairs particular portfolio in his charge as the other members of the inet devote to the discharge of their duties He is the execu- head of the Government, and, by reason of the fact that all s of major importance go to him, he will be able to have the affairs of the Foreign and Political Depart- Government, just as he has over the affairs of nts

Lord Reading: May I ask you a question, just to see if I am wing this? I quite appreciate the argument with regard to lesirability, according to your view, of a Member being appoint- or the Foreign and Political Department, instead of the Vice- being his own Member. Then you referred to the cases of r importance, which of course go to him, and again I appre- that argument with regard to the Foreign and Political De- ment; but you proceeded from that to say they would still come Do you mean they would still come up from other departments ell, or are you confining yourself to the Foreign and Political artment?

Sir Muhammand Shafi: Not from the transferred departments, from the reserved departments.

Lord Reading: You mean from all the reserved departments?

Sir Muhammad Shafi: Yes, so that he will have ample time to te to the affairs of the reserved departments.

Lord Reading: They will not come from the non-reserved de- ments?

Sir Muhammad Shafi: They will come to him for information.

Lord Reading : That is what I wanted to understand.

Sir Muhammad Shafi : He may call for anything he likes for his own information, just as in the Provinces the Governor would be able to do.

Chairman : Would it be convenient for you if I were to put a question, or rather a suggestion, to you? I should like to hear your views and those of other speakers on this. I am not giving this in any way as my opinion; I merely throw out a suggestion. What would you say to a suggestion of this sort? The Governor-General would be President of his Council, but there would be a Vice President and Leader of the House, who would preside over the Cabinet on all occasions when the Governor-General found it unnecessary to preside. Just stop a moment. Possibly the Governor-General would find it unnecessary to preside when those subjects which were not reserved subjects were discussed. I am just indicating an idea; I do not want people to object merely because they do not like the term "President". I will put it again, so that it may be considered. Suppose the Governor-General is President of the Council but that there is a Vice-President and Leader of the House who will preside over the Cabinet on all such occasions when the Governor-General finds it unnecessary to preside.

Sir Muhammad Shafi : That is a very fair solution of the matter. In fact, at present the Governor-General does preside over the meetings of the Cabinet; he is the President of the Cabinet; but there is, even at present, a Vice-President; even at present there is one of the members of the Executive Council who is nominated by the Governor-General as Vice-President.

Mr. Jinnah : Arising out of that suggestion, may I understand the point a little further? If the Governor-General is to preside, what will be his powers?

Chairman : We will come to that when we discuss the position of the Vice-President.

Mr. Jinnah : The answer will depend on that.

Chairman : Then you will not give an answer until you have heard the powers. Thank you; that is a very proper question, on which much depends. I am sorry to interrupt you, Sir Muhammad, but I feel it is necessary to put things to you as you go along.

Sir Muhammad Shafi : So far as the main questions are concerned, I have done. If there is any question you would like to put to me on any other matter I am quite prepared to answer it and to put my 5½ years' experience of the working of the machinery at your disposal.

In conclusion, I should like to say this. The position in India is very grave. When you have in a country a position such as exists at the present moment in India, when you have even ladies belonging to respectable families coming forward, as they are doing in India, to defy the law and to go to jail and suffer the hardships of jail life, there must be something wrong; there must be something rotten in the State which needs to be radically cured.

It is quite true that anyone who breaks the law must suffer the penalties which the law imposes for such a breach; it is quite true the Government of a country will be compelled to take action when there are flagrant breaches of the law; but that, I submit, is a matter which ought to lead us to this conclusion, that if gentlemen who otherwise occupy high positions in society, and who are respected not only by their friends and by those in their immediate circle, but by hundreds of thousands of people, have thought fit to resort to this remedy, a remedy for the ills from which their country is suffering, then, no matter how much we may condemn their course of action, as some of us have openly done, no matter how much we may disapprove of the methods adopted by them, we must recognise that mere repression, however justifiable, will not solve the problem with which Parliament or His Majesty's Government are confronted in India. Some generous gesture has to be made, a gesture which [illegible] gesture which, while [illegible] Indian intelligentsia [illegible] which [illegible] I am [illegible] me very, very grave, it will [illegible] e join my humble voice with [illegible] pru in the final appeal which [illegible] the conclusion of his speech

Lord Reading: My Lord Chancellor, we have now reached the most important part of the matter for discussion in this sub-[illegible] ct is that of the responsibility of the Federal Legislature We have heard two [illegible] . I may be forgiven, I hope, if I say I [illegible] ce to the observations made by Sir Tej [illegible] ay; not for a moment that I intend to [illegible] 1, very weightily, from Sir Muhammad [illegible] ej Bahadur Sapru went more into detail in [illegible] before us as embodying the principles on which he thought the constitution would have to be framed. I am not complaining at all; I quite understand that, naturally, Sir Muhammad Shafi did not want to go through them all again.

Sir Muhammad Shafi: I did not want to repeat them.

Lord Reading: I quite understand that. He took up the points on which he was not in agreement with Sir Tej Bahadur Sapru and made his own observations about the working of the constitution.

May I be allowed to say I find my ear very readily attuned to arguments advanced either by Sir Tej Bahadur Sapru or by Sir Muhammad Shafi, because I am accustomed to their voices, and I have always listened with the greatest care to their arguments. I had the advantage of their services to His Majesty when I held the position of Viceroy, and therefore I know the value to be attributed to their observations and to their advice I would add—it may be rather irrelevant, but I cannot allow the occasion to pass without saying it—that in this sub-Committee we have not only

Sir Tej Sapru and Sir Muhammad Shafi but Sir B. N. Mitra, who was also a member of my Council, so that I have the great good fortune of having three members of the Cabinet that assisted me during my time as Viceroy present here. I should like to add also that no Viceroy, and no head of a Government anywhere, could have had more loyal, more devoted, and more trusted servants of the King than I had when they were assisting me in the Government of India.

My Lord Chancellor, I shall make one or two preliminary observations and then proceed, as quickly as I can, to the actual points that occur to me for discussion at this moment.

I have no intention of minimising, or attempting to minimise, the importance of the observations made to us on the gravity of the situation in India. We are well aware of it. But, I must add that, however grave the situation may be, it must not lead us to take action which we might otherwise think unsafe or wrong. I admit that the situation and its gravity demand very careful consideration by the Government of India and by His Majesty's Government and by all of us. I quite agree with that, and I appreciate also that the speeches made by Sir Tej Sapru and Sir Muhammad Shafi were intended to emphasise the gravity, and not as threats. I am quite sure of that; I know them both too well to think otherwise; and besides, they have said it.

I desire to say in reply that we have solemn responsibilities to India at this moment. However grave the situation may be, we shall not fail to discharge our responsibilities; we shall not abandon them because the situation is grave. We shall handle the situation as we think right and honourable in the interests of India and in the interests of the Empire. Above all, it must be understood that anything we have undertaken in the nature of an obligation to India—and there are many obligations to India—we shall take care not to abandon but to carry out; and in any modifications or changes that we may be making or willing to make at this present time, we must and shall take care that our responsibilities are carefully safeguarded.

My Lord Chancellor, may I turn to the actual question before us, and which naturally involves considerations of the character to which I have called attention. I agreed very much with what Sir Tej Bahadur Sapru said when he quoted that the only cure for distrust is trust. Will he also allow me to make use of that quotation, I will borrow it from him for the moment. It is as true that the only cure for British distrust of India is trust, as it is true that the only cure for Indian distrust of Britain is trust. In other words, the plea that I shall make to you is a plea for mutual trust. We may both help each other and we may both, I trust, before we have finished this Conference, have done our utmost to banish the want of trust and the suspicion that may exist.

My Lord Chancellor, I want to refer straight away to the actual situation at this Conference. Of course, this matter of responsibility is of cardinal importance. I suppose this and the hope of

settlement of the Hindu-Muslim controversy are the two most important subjects before this Conference. Fortunately, at this moment, and I hope ultimately, we shall not have to deal with the question of the Hindu-Muslim controversy, it may be settled amicably without reference to us; but in any event, although I cannot say that some of the questions that we have at present to discuss do not involve considerations of the relations between the Muhammadans and the Hindus, I shall not refer to them in any shape or form during the discussion in which I am engaged to-day, but shall leave them for a later occasion in the hope, the very earnest hope, that when we do come to consider them it will be found that they have been settled amicably between these two great communities.

My Lord Chancellor, the time has now come when, speaking on behalf of the Liberal Party Delegation, I should inform the members of this Committee where we stand as a Liberal Party. I must speak with candour, as, indeed, we have all agreed from the first—and it has been one of the advantages of the Conference that we have been able to address each other with frankness, notwithstanding that some times arguments may not have been palatable to one or the other—for it is necessary in order that you may understand our point of view; and if I do give expression to opinions which do not commend themselves to you or to any number of you, I beg of you to bear in mind that it is our duty to state our views just as you recognise that it is yours to give expression to the opinions you hold.

Now, from the outset of the Conference, when the Princes declared at a very early stage their intention of joining in a Federal Constitution for all-India, a new situation was created. In the words of the Prime Minister, this declaration of the Princes revolutionized the whole aspect of the matters before the Conference. We, the Liberal Party Delegation, approach the subject of responsibility of the Federal Executive to the Federal Legislature with a genuine desire to give effect, as far as we legitimately can, to the views of the British Indian Delegation in this direction, provided that adequate safeguards and reservations are introduced which will enable the Government of India to be carried on with reasonable security to all interests, and that the new constitution will be fairly workable. I shall elaborate this statement as I proceed to deal with the main points of Sir Tej Bahadur Sapru's speech, but unless some argument is adduced which causes us to change our views, I do not hesitate to say at this moment that that is the recommendation we shall make to our Party in Parliament It goes, we think, a long way. It probably goes further than some may have expected. It certainly is intended to go the full length of responsibility of the Executive to the Legislature, provided that we are satisfied that the reservations and safeguards which admittedly must be introduced are adequate for the purpose intended, and that we get a workable machine, and constitution which will enable the Government of India to be carried on efficiently and with proper protection and security to all.

It may be well—I do not know; it may be—that you may view more favourably that declaration at this moment than when I have finished. I hope it will not be so, because so far as I can judge the various safeguards and reservations we wish to make are very little in advance of those which, it has already been admitted, must be made, and where they are in advance they are only to some extent, perhaps, in amplification of statements already made to us. Now, I hope I may not be misunderstood, either here or in India, when I venture to pay a very high compliment to Sir Tej Bahadur Sapru. I confess that when I heard his speech on Friday, and I went away thinking of it, as I have done ever since I left here, I was impressed with the patriotism and, let me add, the courage of the man who stood there and put before us the views that he held firmly, quite convincedly. He had managed to get rid of minor points and to concentrate upon the great salient features of the problem before us, and then made up his mind that these should be dealt with fairly, reasonably, equitably to all, and that he would present a case in studied moderation. The language he used, and the powerful argument he presented, permit me to say, was the language of a statesman conscious of the great problems he had to face, regardless of the difficulties that may meet him as a politician.

My Lord Chancellor, it must be remembered that we are examining for the first time the problem of a Federal Constitution. Although it is true that it is the first time, we have been very much encouraged to give our attention to it by Sir John Simon and the Statutory Commission; and although for no fault of their own their appointment was unpopular, and their Report consequently not too favourably received, this must be said—and at any rate I cannot forget it—that the mind was carried along in the direction of federation and encouraged to pursue the study of it by reading the Simon Report. They were unable to deal with the questions before us, because, of course, they did not know what the Princes' view would be. The Government of India Despatch is not really of much assistance, save that it also encourages the idea, but dismisses it as too distant for examination or consideration. Well, we are engaged in the problem, and therefore much of what has been said in both these Reports, and in the Indian Central Committee Report, is a little out of the picture when we are considering the far more important problem of federation, they were merely dealing with the unitary government. Of course, when seeking to set up a federal system such as we are now discussing it is inevitable that complications and difficulties should present themselves at every turn, but they must be met, and it seems to me also inevitable that in a transition period, when you have not yet arrived at the final goal of your constitutional development, you may have recourse to constitutional practices and devices which in the final result you can discard; and I think, myself, that that was the strength of what Sir Muhammad Shafi was saying with regard to the establishment of dyarchy. I do not pause to engage in a discussion as to whether this can properly be called dyarchy or dualism. I care very much more for the thing we are going to set up

han for the name given to it, and I will make a present of either ame, or any other name, to anybody who wishes it. You must ecognise, and it is idle to refuse to recognise it, that in this tage there must be some dual form of government, and, as Sir Tej Bahadur Sapru said very clearly, and as was admitted by Sir Muhammad Shafi we may take certain questions as beyond he region of controversy. I think in this matter we shall all e agreed—that is, that questions relating to the Army, subject o one or two matters to be discussed in Committee, generally peaking questions relating to Defence and the Army, and oreign relations, international obligations, obligations which the State has already undertaken and must perform, all stand outside the region of controversy and are to be regarded for this purpose as reserved subjects, although that may not be the technical name by which they will be known later on, but it is useful for our discussion to refer to them as the reserved subjects—that is to say, the Crown subjects will pass into a category of their own, and will be, for this purpose, outside the range of Cabinet decisions reached by the responsible Executive. Of course, decisions may be taken by the Executive which will have an effect upon these Crown subjects That is inevitable I will deal with that a little later when I discuss the constitution of the Executive

It must also be remembered—and I think again we cannot be in controversy here, because you have been addressed by two constitutional lawyers, and unhesitatingly I say that they will agree with me in this—that either the Viceroy or the Governor-General, whichever term you may choose to apply to him, must be responsible to some authority We cannot have—may I be forgiven for sses—an autocrat at the head of our affairs ceroy is in charge of these, it is in his posi- ive of the Sovereign, because, in strictness, y and in practice, the executive authority must be the representative of the Sovereign, carrying out, by due constitutional means, the decisions which the constitutional authorities have reached. The King, in India the King-emperor, is the Sovereign of all authority. The Governor-General in Council is the constituted executive authority which actually carries out the decisions of the Government. The decrees of the Governor-General in Council. There must be in the present case, there have been in the past, and are at the present moment, some special instances in which the Governor-General is himself the executive authority. For example, when he signs an Ordinance under Section 72 of the Government of India Act, it is the Ordinance of the Governor-General and not of the Governor-General in Council. The Governor-General is the constituted authority, and therefore with his signature alone it becomes the decree upon which action is taken.

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It is only necessary to bear those things in mind, not because I want to discuss them at any length, but so that we may understand better the chain of responsibility. There is some importance in

that. In these reserved subjects—and I think Sir Muhamma Shafi made this point—the Governor-General will be responsib to Parliament; that is, to the British Parliament.

Sir Muhammad Shafi: That is right.

Lord Reading: He is not responsible to the Indian Legislatur

Sir Muhammad Shafi: That is quite right.

Lord Reading: That is the constitutional position; I shou have expected agreement from both of you on that, and there ca be no controversy about it. I only mention it so that we can kee it quite clearly in mind, because no doubt there will come son question as to the point at which you may say in any new syste and with any new constitution, there will be certain lines of no interference by the British Parliament; just as we did have befo in transferred subjects in the Provinces the sphere of interpellatio for example, in the British Parliament.

Sir Muhammad Shafi: May I say that that is the reason why said that in regard to reserved subjects the Secretary of State' powers of superintendence and control will continue.

Lord Reading: That is right.

Sir Muhammad Shafi: That is the reason why I said that.

Lord Reading: It was not always easy to hear what you sai because your voice sometimes does not travel very well to this end But that is the whole point of it, and I do not wish to pursue it provided we have made that perfectly clear. It is just in connec tion with that superintendence, direction and control that there were some references made this morning to the Secretary of State and to the correspondence that passes between the Secretary of State and the Viceroy, which is not in any way intended to be personal, but at any rate partakes of the nature of private and personal telegrams. I really do not quite understand what the objection was, if it was an objection. The only reason they are private and personal telegrams is because they cannot walk across the road from one house to the other and talk to each other, the only means of communication is by telegram. I do not really know what it is that is wrong. Is there supposed to be something clandestine in this correspondence? Is it supposed to be a letter which, if you could find out what it contains, would expose the machinations of Government? I wish they could be published. Unfortunately, it is one of those absolutely inviolable rules that they are not published. I myself quite failed to appreciate what the criticism was. No doubt it is a useful thing, because at times it has been said: "Well, if we could only see that telegram, we might understand a little better why the decision has been reached. But that is only another way of saying that if one had been able to be present in the private room in which the Prime Minister, the Lord Chancellor and the Secretary of State for India discussed some important matters relating to India, one

might know a little better why it was that they had come to certain conclusions. Of course, it might be that some would be flattered by the references to their own arguments; that may not be the case with all of us. But I pass from it, because I cannot think that it is really a matter which helps us

May I add also that I do not intend to say anything more now with reference to the general constitutional law It is not because I do not pay proper attention to the arguments addressed either by Sir Tej Bahadur Sapru or Sir Muhammad Shafi on this subject, [illegible] the extent that they have referred [illegible] ts upon them, there is no room [illegible] that although we are all three [illegible] of Parliament, and although we [illegible] that is in the interests of India, [illegible] oaching it from different sides That does not prevent us, as experienced lawyers, from exercising our judicial capacities as we should in this case, and giving our interpretation according to the best of our judgment and experience For myself, I have not one word to say with regard to what was said in that respect. Some of the references, particularly to the kind of protection which is given already, relating to the revenues, public debt, and so on, are quite useful; but I do not pause to deal with them at all; for this reason, it has a bearing on many of the arguments, we are not here framing a constitution. If we were, every one of those Sections would require most careful study and comparison with other Sections. We are here trying to reach some agreement upon the preliminaries, the main propositions, of the federal system which is to be set up How the details are to be worked out I do not propose to consider It would be a matter, no doubt, for the Government of India, in conjunction with the Government at home, to arrive at their conclusions I pass from it and I pass also from the observations that have been made about the Secretary of State and about the Great Mogul I did not catch the expression itself until I saw Lord Peel and Mr Wedgwood Benn suddenly becoming larger. I could not quite make out why it was; I had lost the thread for the moment, and then I saw that Lord Peel had been a Great Mogul, and I was the poor thing upon which he operated, as Sir Tej Bahadur Sapru said, because I happened to be the Viceroy at that time

Now all I desire to say with regard to it is that in truth it is not quite true—I use the word in an inoffensive sense, of course—to say, as is so often done when the desire is to hold up to ridicule the system under which we in England have part in the Government of India, that the Secretary of State is in this position of the Great Mogul. It is very picturesque; but is this really correct?

Let us dismiss it in two sentences, as we can, and in all truth because I can challenge contradiction on this. The Secretary of State is the means of communication; he is the head of the Department empowered by the other members of His Majesty's Government and by the authority of the King to deal with the affairs of

India. When he speaks he never speaks in his own voice; he speaks for His Majesty's Government; and the Secretary of State is really His Majesty's Government. His Majesty's Government is dependent upon Parliament, and His Majesty's Government is supposed to represent the views of Parliament. So that what it means is that it is always His Majesty's Government and not the Secretary of State who is entrusted with all these various duties. That is the effect of it. I do not dispute that there are many cases in which the Secretary of State comes to his conclusions without reference to the Cabinet or perhaps to other members of the Cabinet, even to the Prime Minister; but in matters of major importance (I am speaking in the presence of two Secretaries of State) I do not hesitate to say that he would have to take matters of that kind to the Cabinet. There is a classic instance in which a Secretary of State for India failed to consult the Cabinet, and with consequences upon which I need not dilate any further.

(The Sub-Committee adjourned at 1-15 p.m. and resumed at 2-45 p.m.)

Lord Reading: My Lord Chancellor, when we adjourned I was just about to deal with the question of safeguards and reservations. I had enumerated Crown subjects, which I will not repeat. But there is one subject that I did not mention because it has a special reference to the Indian States; it comes in separately. It is in regard to the relations with the Princes both in dynastic matters and also in questions generally referred to as paramountcy. Those also must, I think, be subjects reserved to the Viceroy. Hitherto the constitutional position has been that these matters were dealt with by the Governor-General in Council; and in practice that has been so, save that the Viceroy, who acts as the member, as Sir Muhammad Shafi pointed out, or these questions, generally referred to as political, deals with them, save in matters of major importance, when, certainly in my practice, they were taken to the Council and dealt with by the Council with the Viceroy presiding. Sir Muhammad made observations upon the position of the Viceroy and the Foreign and Political Secretary, and suggested that there should be a Member. I do not at this moment stop to discuss that. There is much to be said for it. It has formed the subject of discussion very often. I think it is a matter which should not be decided without consultation with Their Highnesses of the Indian States. If, as I think would be the case, and is desired by the Princes, the Political matters, that is, rules relating to the Indian States, are dealt with by the Viceroy, then it is a question of adjustment or discussion between them before the conclusion is reached as to whether there should be a Member or not. But, in any event, he would not be a Member of the Cabinet which would be dealing with the other subjects already referred to. That would exhaust the crown subjects.

Before I proceed to the other safeguards, there are just one or two observations I would like to make. In preparing the basis of

constitution it is necessary it should be so fashioned that it can meet all eventualities we can foresee, and you will forgive me if I

…men with whom …is Table will be the new Federal … the existence of … t will take any … xplained and set up, I cannot say; but there have been expressions used by some of those who are Members of that party which are disquieting to us in this country. I do not go into them in detail; Lord Peel did refer to them earlier; that is, the observations about repudiation of debts and complete independence, and other questions I leave them aside, except to ask you to bear in mind, when you do consider any of the remarks I have made, that the constitution must be *so constructed* that it can meet all eventualities which we, as human beings, can reasonably foresee.

Now I propose to deal with the next subject, the position of the Ministry, upon which we heard much yesterday from Sir Tej, and which was discussed this morning by Sir Muhammad Shafi I … of Sir Tej to be that there should be a … ill consist of seven or it may be eight … harge, respectively, of the various depart- … and that they will be a Cabinet with … I think, myself, that he is quite right; … responsibility; there should not be occasion for demonstrations against a particular Minister who has … the rest of his colleagues, and the respon- … ctive. So far, I gather that there is no

Then Sir Tej made a novel proposition, which was that one, two, or three Ministers or advisers of the Viceroy, in the various matters which will be reserved to him, should sit with the Cabinet and should fall when the Cabinet falls, in the sense that they would have to resign. At first sight that seems rather an extraordinary proposition. Objections were pointed out both yesterday and to-day; and, if I remember aright, on an earlier occasion when some indication was given of a possible proposal to this effect, Mr. Jinnah also made some observations against the proposal I have thought about it a good deal; I confess that at first blush it did not make a strong appeal to me. But in truth do let us consider what it means. The responsibility in the sense of the one, two, or three Ministers of the Viceroy, who will not be responsible to the Legislature as are the other Members of the Cabinet, is really only a technical matter, because, as I understand Sir Tej's proposal, and of course he will correct me if I am wrong, they fall because they are the members of a Government, that is to say, they have formed part with the Cabinet, of the consultative work of this Cabinet, and his notion, if I apprehend it, is that when the Government falls, with which they have been sitting, although they

are not responsible, the whole Government including themselves should cease to be Ministers. It would be open to the Viceroy to reappoint them to a new Government if he so chose; it would equally be open to him to change the Ministers if that suited him.

Upon reflection, I have come to the conclusion that it is a good proposal, and I do suggest that it should receive careful thought from those who may be inclined, at first sight, to reject it. I am sure that most of you will not reject it merely on technical grounds; you want to see something practical. To me the very advantage of the system is that these Ministers, that is to say the Viceroy's Ministers, will be sitting with the Cabinet; they will all be taking part in the daily or weekly discussion of Government affairs; they will get to know and understand each other; and I think a very important aspect of it is that the Indian Members, that is the Members of the Cabinet itself, which is responsible to the Legislature, will have the advantage also of discussing with the Viceroy's Ministers, who are responsible for reserved subjects, the various matters with which they are concerned, so that eventually, although the Cabinet Ministers will not be responsible for defence and other subjects of that character, yet nevertheless when the questions come up for discussion an opportunity will be had of hearing the views of those who are responsible.

Sir Muhammad Shafi: On this theory of the Government resigning as a whole, will the Viceroy, who is the head of the Government, also resign along with the Government?

Lord Reading: No; I am going to deal with that separately. I am dealing with the ministers. There is no question of that; obviously that cannot happen; I am sure Sir Muhammad Shafi had himself answered that question before he put it to me; and let me assure him it is not putting me in a dilemma. I will explain to him what my view is about that. I am not making these observations without having reflected much upon them.

I do see a considerable benefit, not only to India but also to the Viceroy's Ministers, and to the Viceroy, in cultivating unity in the Government. For the future, looking ahead in this great Federation which we are fashioning—or striving to fashion—it is of value to know that you are assisting, as indeed, must be the case, those who have had nothing to do with some of the affairs of administration, to get some insight into them, and, therefore, to know more about them when the time comes that they may have to take a more prominent part in the management of them. I would beg you not lightly to discard that which I think I rightly apprehend—I am only judging from what was said—was in Sir Tej Bahadur Sapru's mind when he proposed this.

Now, as to the position of the Governor-General. Of course, the Governor-General will be appointed in the future, as now, by the King. That is quite understood, and was stated. In certain matters he will have special duties entrusted to him for the purpose of dealing with what we have called, for the sake of convenience

t this moment, Crown subjects or reserved subjects He will also ave a number of other duties, which will arise in consequence of ie special position in which he will be placed with regard to emerencies, and in connection with other considerations to which I ill call attention directly. He has really at least two big spheres operation; the one is in regard to the Crown subjects, and the her, with regard to which his authority is not so great and his wers are more restricted and conditioned, in regard to some of the bjects with which we now have to deal

[illegible] the President of the Council and sits iding the one, two or three Ministers iey meet in the position of President the whole Council, I am not at all sure it may not occasion diffilties I have not myself worked it out sufficiently satisfactorily my own mind to pronounce a definite opinion on it, but I think e one thing that is essential, in order to get executive authority r the Acts which have to be decreed, is that the Governor-General ist, undoubtedly, be President of the Council I do not see any her way in which it can work. The decrees which are issued ist be decrees—I am speaking apart, of course, from reserved bjects—of the Governor-General in Council He is the representive of the King, acting with the Council, in order to give the ecutive authority that is required, but I do not mean by that pression that he should always preside Though I prefer not to press a definite opinion on it at the moment, I am rather inclined the view that in certain matters, where there are questions for nsideration which come within the area which is to be more ecifically entrusted to the Cabinet, it would be better, perhaps, at he should not preside. In other matters I can perfectly well derstand that it may be very necessary for him to preside

For example, a question of law and order may be under dission in which at some moment it is necessary to envisage, it may near or it may be distant—the calling-in of troops, either for rposes of demonstration or for purposes of actual operations. The ceroy must be allowed to know, in such a case, what is happening d what the views are of those who form the Government, and can never know that so well as when he hears the discussion, is esent, and even takes part in the discussion. It must always be rne in mind that in some matters there are emergency powers uch will vest in him and become over-riding powers when condins occur which enable him to use his authority and power. He ould know the minds of his Ministers, and the Ministers should t to know his mind in the various acts which have to be taken the purpose of preserving law and order.

I would ask you also to bear in mind that we are talking of a w Federal constitution which is all in the making. We are apt I say "we" because certainly I have been, and I have been adually correcting myself; until I think I have emerged from the st mentality—to get into the state of mind in which we, who have

taken part in the affairs of India, and particularly you who have been engaged in them all your lives, are inclined to look in the future for a continuance of the state of things which has existed hitherto.

Now, my conception is entirely different. I admit I have come to it gradually, by listening to what has been said and by thinking over what has been put forward as argument, and I am looking forward to the time when the Council meets and there will not be opposition between the Cabinet and the Viceroy, or between the Legislature and the Viceroy and the Government, but when we shall have the whole of the Ministry, including the Viceroy's Ministers and the Viceroy, acting to the best of their ability and with the utmost spirit of co-operation to strive to give effect to the views of the Legislature where they can, and to attempt to explain to the Legislature why it is wrong if it wants a particular thing. The Ministry will be able to expound its policy and its reasons for that policy, after discussion and consultation—between those who are placed in these positions of authority.

If that is the true condition of affairs in which we shall work in the future, it will really simplify many of the difficulties we are constantly imagining, from all that has happened in the past, and many of these safeguards and reservations we are now introducing, because we must, in order to prepare for all eventualities, will in all probability never be called into play. I think myself that the proposal should receive our support, and when I speak of myself I speak also for my Delegation. We are prepared to support that view.

I will ask you, however, to bear in mind one further matter which also requires a little correction in one's mentality. We are accustomed—all of us here—to speak of a Ministry responsible to the Legislature based upon the theory of responsibility of Ministers to Parliament as we understand it in this country. Are you quite sure that is how things will work in India? My own impression, so far as I am able to form one, is that it will take some time—it may be some considerable time—before you will get parties formed in the sense in which we understand parties in this country, before you will get the kind of divisions of opinion that will occur between members of the same community in regard to political matters that may come up before them.

I cannot help thinking that it may be when you get your first Legislature elected and form your Ministry the question of parties will not come into it; it will be a question of so many representatives of British India, composed of a proportion of Hindus, a proportion of Muhammadans, and it may be some one or more—that, of course, is for those who are selecting the Ministry—of other communities. It will not be on parties, as we understand it. It may very well be in the future, as we progress, parties will develop, and I earnestly hope all these questions of communal difference—I do not merely refer to Muslims and Hindus—will all disappear and

political parties will gradually be formed, and not parties based, as they very largely are now, on communal differences. That is a matter to be taken into consideration by you.

It is very largely for that reason, and because I think it is so important that you should have stability for a Ministry to carry out its programme that I support the view that Sir Tej Bahadur Sapru has put forward, that no Ministry should be turned out of office unless there is a two-thirds majority—even a three-quarters majority has been suggested, but we can leave that for the moment

I understand that means, in accordance with recedents, a two-thirds majority of the whole Houses are meeting, of the two Houses.

That is the position. I do not elaborate it; I am only pointing it out to you so that you may perhaps consider it, if it had not quite occurred to you in that light I need not elaborate it, because I support the view that has all along been put forward that stability should be given to the Ministry so that it can carry on its work

Of course,, it may be a position would arise in which a Ministry could lose the confidence of the House, notwithstanding there was not a sufficient majority to turn them out It must always, of course, be open to the Viceroy, who is the head of the Government,

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There may not be sufficient members opposed to it to form the necessary two-thirds or three-quarters majority to turn the Ministry out, but a majority of one against them is enough to stop a Bill passing, or any other matter they may be bringing forward. Therefore, although stability be given in that way, there may be—and there doubtless will be—other considerations which will have to be borne in mind when certain circumstances arise.

That being my view, I need not go further into it except for the purpose of making one observation with regard to the representatives of the Indian States in both Houses. I confess that I was very glad to hear their Highnesses say that they were prepared, in the case of a vote of censure or of no confidence being proposed, in which the two Houses sat together, or where it came up in either the House or the other, themselves to vote upon questions of that character, and I think they are right in that, because they are interested. One has to bear in mind again that your Ministry will not be formed of parties as we understand parties. Your Federal Executive ... British India ... and then ... consultations which will take place, the various interests reserved to the Viceroy.

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Of course, it may be a position would arise in which a Ministry would lose the confidence of the House, notwithstanding there was not a sufficient majority to turn them out It must always, of course, be open to the Viceroy, who is the head of the Government, to form conclusions on that, it must be inherent in him to have the power of dismissing a Ministry if he thinks it has lost the confidence of the House You must bear that in mind for this reason If the majority is not sufficient to turn a Ministry out, that Ministry may not be able to carry, by a majority, the Legislative proposals that it wants to put forward, if the Legislature is opposed to it. There may not be sufficient members opposed to it to form the necessary two-thirds or three-quarters majority to turn the Ministry out, a majority of one against them is enough to stop a Bill passing, or any other matter they may be bringing forward. Therefore, although stability be given in that way, there may be—and there doubtless will be—other considerations which will have to be borne in mind when certain circumstances arise

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I would go further than that. I confess that I view with some apprehension a position in which the representatives of the Indian States in the two Federal Houses do not take part in matters which are said to be of purely British Indian interest. I have found it difficult to think of cases in which they would not have an interest; it may not be direct, but yet it is indirect. They are interested in the Ministry, for example, as has already been established. Many of the questions which will come up cannot have a bearing on Federal matters; there are very few that will come up that will have no bearing at all on Federal questions. Questions of finance which may arise in the Lower House, questions even relating to income tax, questions even relating to such matters as law and order—all these have their indirect bearing upon the Indian States, and it is my hope that before we have set up this constitution it will be found that the Indian States will be prepared to take their part and act fully as members of both Houses, taking their proper share of the responsibility that is on them as members of those Houses, and that the representatives of British India will be prepared to accept that, remembering that the Indian States are giving up what they have hitherto always cherished most sacredly, namely, a part of their sovereignty, for the purpose of entering into this scheme of Federation.

Now, my Lord Chancellor, I want to pass to other matters.

Mr. Sastri: May I just ask Lord Reading at this stage to make this last point of his clear? Did he express an opinion in favour of the representatives of the States discussing and voting upon matters exclusively concerning British India?

Lord Reading: Yes. My view was that in matters which indirectly may concern the States, and in matters which have an indirect bearing upon Federal questions, they have an interest and ought to vote. There may be some matters which are purely British Indian, but I think you will find it very difficult to distinguish these from the others. I admit the illogicality of the position; I admit it can be shown to be inconsistent with the democratic position of the representatives of British India, but for the sake of symmetry in the working of the whole machine, I would myself prefer that they should take their full responsibility and act according to their views, whatever they may be, having listened to the arguments and made themselves acquainted with the position. I cannot do more than throw out the suggestion.

Sir Akbar Hydari: Would not that lead ultimately to corresponding demand for discussing topics relating to the Indian States?

Lord Reading: I cannot say it will not lead to a demand, in the sense that there may be some desire that that should take place; I cannot say there will not be that desire—it may be in existence now for all I know. Obviously I cannot say anything about this, but what I do know is that the Princes are very definitely of opinion and have very definitely stated it is a condition of their entry into a Federal scheme that they shall not have interference with any

of their own internal affairs They have made this quite clear, and for the present purpose it stands I should like to say this, however, in order to be quite candid I do hope that as a result of the discussions and as a result of exercising their judgments on them, and as a result of the reports which may be made to Their Highnesses on the various events that are happening there, Their Highnesses may themselves see that some advantage may be gained by making changes in their own affairs But that is for them, and they must choose their own time and find their own way of doing it. I do not attempt to prescribe it, and according to the terms on which we enter into this constitution it is not open to anybody to prescribe it.

Sir Akbar Hydari There is one other point I should like to raise because we attach very great value to what Lord Reading says Do you think there will be Ministers in charge of the Crown subjects, the reserved subjects, who will be discussing the subjects so far as they fall within the purview of the Crown with the other members of the Cabinet?

Mr. Jinnah Do I understand you correctly, that so far as non-reserved subjects are concerned the members in charge of the reserved subjects would be able to take part and vote?

Lord Reading Yes, to take part, not vote. You are speaking of reserved subjects?

Mr. Jinnah I say, so far as the reserved subjects are concerned, the members in charge will be members of the Cabinet [illegible] reserved subjects?

Lord Reading Well, I understood the proposal in a different way. I do not know whether I am right. I understood that it meant that they would be present, they would attend, they could take part in the discussion, they could express their views and express views for or against but they would not vote, they would have no responsibility The vote must be with the Cabinet It is the Cabinet that determines I do not know whether Sir Tej meant that.

Sir Tej Bahadur Sapru That is exactly what I meant That is exactly my point

Lord Reading · That is what I understood it to mean, and the object of it really is to encourage discussion between them to understand each other's point of view

Mr. Jinnah You answered one point of my question but there is another point involved The point that I am concerned with now is this I understand that the reserved Ministers will not vote, I understand that; but—

Lord Reading Yes, but not always

Sir Akbar Hydari It is not necessary

Lord Reading · It is not necessary but nevertheless whenever there are questions which in the slightest degree affect the Crown

subjects, when the Cabinet is sitting and discussing their affairs, obviously they must express their views and take part in the consultation. They are not responsible, but they must do that.

Sir Akbar Hydari: There is one other point so far as the discussion of the reserved subjects is concerned. Should those discussions come up before the Cabinet merely for discussion or not?

Lord Reading: No; they would not, because you see, no Cabinet would be called for the purpose. They would remain as they are, reserved subjects for the Viceroy. But if I were Viceroy and you were asking me the question I will tell you the answer that I would give—that I would take every opportunity of consulting with the Cabinet, even on questions in which they had no responsibility. I can only say that in numbers of cases—and there are at least three of my Indian friends here who will bear out what I am saying—in numbers of cases in which I had responsibility as Governor-General for what I was doing, and they had no share, no part or lot, I nevertheless took the opportunity always of discussion with them, prefacing my observations with the remark that the responsibilit was entirely mine, that the advice that they chose to give me wa merely in the nature of friendly advice, and that they would no be held responsible for it being good or bad.

Mr. Jinnah: The Cabinet will meet as if it was a collectiv Cabinet?

Lord Reading: Yes.

Mr. Jinnah: And every subject, reserved or not reserved, wil come under the purview and the jurisdiction of the Cabinet for th purpose of discussion?

Lord Reading: Well, that goes too far. That I did not understand.

Mr. Jinnah: I am only asking the question. What do you contemplate?

Lord Reading: I will tell you what I contemplated with regard to that; when a Cabinet meets—and, incidentally, as I had understood from both Sir Tej Bahadur Sapru and Sir Muhammad Shafi, the Viceroy would always have the powers of calling the Cabinet together for the purpose of discussing any question—and they are discussing non-reserved subjects, it may be that in the course of discussion reference is made to reserved subjects. What will happen in such a case? I gave an instance: "Will you be ready to send troops? Would you do it?" and so forth. In those matters there would be free discussion, but on the reserved part of it the Cabinet, of course, could not vote. On the non-reserved part the Viceroy's Ministers could not vote. The responsibility remains where it is placed by the Constitution—on the Cabinet for the non-reserved subjects, on the Viceroy with the assistance of his Ministers for reserved subjects, but that is all, if I rightly understand. The only objection I had to giving a unqualified assent to Mr. Jinnah's question was that he put in "and all reserved subjects."

...ere is no obligation upon the Viceroy to call a Cabinet in order ... determine the matters for which he alone is responsible. It is ... en to him to do it. He can call the Cabinet to assist him in ... e way I have indicated, but it would not be obligatory upon him.

Mr. Jinnah: Do I understand, Lord Reading, that it would ... me to this—that the Viceroy or the Governor-General, whenever ... is of opinion that consultation between the two halves, or what... er the number may be, is necessary, he may so decide?

Lord Reading: Yes, he may call them together.

Mr. Jinnah: Nothing more?

Lord Reading: He may call them together.

Mr. Jinnah: Whenever he thinks it is necessary to bring them ... gether because it either indirectly affects one department or the ... her he may, at his discretion, on those occasions bring them ... gether?

Lord Reading: Yes.

Mr. Jinnah. Nothing more?

Lord Reading: That is right. That is what I understood was ... proposal of Sir Tej Bahadur Sapru.

Sir Tej Bahadur Sapru. No, Sir, I went a step further. I said ... t the normal condition of work should be that the Ministers in ... arge of the Crown subjects and the Ministers in charge of what ... would call, for convenience's sake, the transferred subjects, will ... ork together.

Lord Reading. I meant that too.

Sir Tej Bahadur Sapru. Will work together with the Cabinet.

Lord Reading. Yes, I meant that, too.

Sir Tej Bahadur Sapru. But so far as the Ministers in charge ... the Crown subjects are concerned, they would not vote, their ... sponsibility being to the Governor-General.

Lord Reading: Yes, I meant that.

Sir Tej Bahadur Sapru. But in relation to the Legislature I ... t the two classes of Ministers to present a united front.

Lord Reading: That is what I understood. I think it is really ... use the question is a little detached from what Mr. Jinnah is ... idering.

Mr. Jinnah. May I point out to Lord Reading that Sir Tej ... hadur Sapru's proposal is a very different one, as I understand. ... His proposal is that it will be one Cabinet—that normally that ... inet will work as if it was one Cabinet.

Lord Reading. So was mine.

Mr. Jinnah: That every Department, whether the Member is ... ched to the reserved or the transferred Department, will be ... n the jurisdiction of the Cabinet from day to day to transact ... It will be one Cabinet.

Lord Reading: Yes; well, that is where you go a little further than I do.

Mr. Jinnah: It is not my proposal; I am only trying to get at whether you understand that proposal of Sir Tej Bahadur Sapru's.

Lord Reading: I will tell you the difference I see. I see what your point is, but I make this difference—that although the Ministers in charge of Crown subjects are members for the purpose of attending and taking part in the Government, they are not members of the Cabinet in the sense that they are not, as the Cabinet are, responsible to the Legislature; they stand in a different position and are responsible to the Viceroy, and through the Viceroy to Parliament. That is the difference, and that is why I do not include them by the term Cabinet; I make the addition always of the one, two or three Ministers, because they do stand in a different position, and I did not follow, from what was proposed, that it should be otherwise than that they should attend, that they should discuss, that there should be this unity presented, and that they should cultivate unity in every way. That I follow; and the question that you put to me, Mr. Jinnah, which I answered, was entirely in accordance with it—I thought you were directing your attention to whether the Viceroy, could, on his own initiative and whenever it suited him, call a meeting of the Cabinet; and calling a meeting of the Cabinet, because of what I have said, does mean also calling a meeting of his one, two or three advisers. My answer to that was Yes, as had already been admitted by Sir Tej and Sir Muhammad.

Sir Muhammad Shafi: Lord Reading, may I put one thing to you? According to Sir Tej Bahadur Sapru, joint discussion by the two sides of the Cabinet will be the normal position.

Sir Tej Bahadur Sapru: Yes.

Lord Reading: Yes, certainly.

Sir Muhammad Shafi: Is that to apply only to transferred subjects, or also to the reserved subjects? That is my question.

Lord Reading: Ah, that is a different question, of course.

Sir Muhammad Shafi: But that is exactly the point.

Lord Reading: That is the one I thought I had answered. I said, as I understood the proposal, that would not apply to the reserved subjects, which were on the responsibility of the Viceroy. Now I would like to know whether Sir Tej's view is that, or whether he wants to go further.

Sir Muhammad Shafi: Sir Tej's view is ——

Lord Reading: May he explain it?

Sir Tej Bahadur Sapru: My view is that the Cabinet should normally work both in regard to the Crown subjects and in regard to the transferred subjects, that the legal responsibility must rest where it does rest under the Statute, but in relation to the Legislature if on non-transferred subjects the Cabinet falls, then the

ficial Ministers should also go out, it being open to the Viceroy to -nominate them the next day or to replace them by other officials.

Mr. Jinnah: In other words—may I illustrate it so as to make clear?

Lord Reading: I think it is quite clear.

Mr. Jinnah: This is how I would illustrate it—that no policy l no programme can be adopted by the reserved Ministers unless ..s brought before the Cabinet and thrashed out first That is the ffect of it. That is the effect of Sir Tej Bahadur Sapru's proposal.

Lord Reading: I do not read it so.

Sir Tej Bahadur Sapru: No.

Lord Reading: I take it to be exactly otherwise

Sir Tej Bahadur Sapru. No, that is not my proposal

Lord Reading: I thought it was not your proposal

Sir Muhammad Shafi: But am I wrong in thinking that Sir 'j Bahadur Sapru's proposal was that joint discussion will be the rmal position with regard to both transferred and non-transferred bjects—joint discussion?

Sir Tej Bahadur Sapru: I make the distinction between joint cussion and taking decisions finally

Sir Muhammad Shafi: I am not talking of decisions.

Sir Tej Bahadur Sapru Joint discussion, I anticipate, and I it; but supposing five Ministers in charge of the transferred sub- s hold one view, and Ministers in charge of the Crown subjects old another view, then the Crown Ministers might say, "Well, re owe responsibility to the Viceroy; we shall follow our own line"

Sir Muhammad Shafi: I quite understand that

Chairman: Might I suggest one thing I think we ought to ave safeguards for Lord Reading

Lord Reading · Of course, it is for you who decide, Lord Chan- ellor, but I do not raise any objection to questions, save this, that would observe that for some considerable time the meeting has been taken up not by my speech but by the discussion I am really anxious not to be too long, although I want very much to make my

You see, Sir, the reason why we wanted to intering is this—that he is making a very important on behalf of a very influential party. His position is really a very important position in regard to what he says, and I understand that there was a little difference from the observations that fell from Lord Reading, and Lord Reading made the observation that the reserved departments will come under discussion before the Cabinet.

Lord Reading · Not necessarily.

Mr. Jinnah · Only when the Viceroy may desire it

Lord Reading : Yes, or when it arises in the course of dis-cussion of non-reserved subjects.

Mr. Jinnah : Yes; not ordinarily.

Lord Reading : No.

Mr. Jinnah : Sir Tej Bahadur Sapru's proposal is that every policy, every programme, even referring to the reserved departments, must be discussed in the Cabinet normally first. True, if there is a difference in the Cabinet, the reserved Ministers, not being responsible to the Legislature but to the Governor-General, could not be bound either by the views of the majority of the transferred Ministers, so to say, or, for the matter of that, by the Legislature; but normally every policy and every action, every programme that may refer to reserved departments, must come in the ordinary course before the Cabinet for discussion. That is how I understood Sir Tej.

Lord Reading: Well, it is not as I understood it, and as I thought Sir Tej had explained it just now. If I may give an illustration, and then pass from it for the moment, I daresay it may come up again; and please understand I do not complain at all of questions; on the contrary, they are all very pertinent, they help to clear up my mind and to clear up the whole situation; I was only anxious because I was taking up so much time and shutting out other speakers. Supposing the Viceroy has to act in an emergency, he, in one of the subjects specially reserved to him, is not bound to consult the Ministers at all, because they are not Ministers in the strict sense of the term. You have got to bear that in mind. The Viceroy acts, it is his responsibility, and he cannot discharge himself of the responsibility by saying "My Ministers advise me to do it, and I came in with them." You see, he has to act, and therefore he may perhaps be taking action which has never been discussed. But I do agree that in the ordinary course of events, when at the Cabinet, questions are discussed in the ordinary way, reserved matters which would come up or might be mentioned would be discussed in just the same way as the non-reserved subjects are; but it is not imperative, it is not obligatory on the Viceroy to discuss them with the Cabinet before he takes action. That is the difference.

Sir Muhammad Shafi: May I remind you that in your time when some ordinances were issued with regard to Malabar, although the responsibility was yours, you called an entire meeting of the Executive Council and discussed it with us.

Lord Reading: I did on every occasion on which I thought it necessary.

Mr. Jinnah : That is quite a different matter.

Sir Muhammad Shafi: Yes, that is a different matter.

Lord Reading : I now pass on to a subject which I think is one of very considerable difficulty for discussion, for obvious reasons, which I need not elaborate, I only say that, because it is the sub-

ject of finance. I understood Sir Tej to put forward certain views with which I agree, and upon which also, I gathered from Sir Muhammad Shafi, because he did not refer to them and did not want to repeat them, that he also agreed.

Sir Muhammad Shafi: Entirely. I entirely agree with every word that Sir Tej Bahadur Sapru said in regard to those matters. I did not mention them, simply because I did not want to repeat what he had already said.

Lord Reading: Quite, and therefore I do not propose to spend time over them. Those matters which are quite clear I am merely going to mention so as to get things well in our minds. The public debt, the service of the loans, the payment of interest, etc., drawings (if there are drawings) of bonds, sinking funds, redemption of debt, the pensions maturing and already matured, salaries and emoluments of officers engaged by the Secretary of State and in the Civil Service, and also the conditions of service in relation to retirement and so forth, are all outside the region of discussion. I gathered from the very broad statement, the very explicit statement [illegible] Sapru that he was quite in favour of safe- [illegible] ost absolute manner. My own view with [illegible] not spend time over it, because some of these things will really require, much as we may dislike it, reference to other authorities; it is obviously impossible for us to discuss some of the questions relating to finance which will have to be considered—is that they will have to be charged upon something akin to what we hear called a consolidated fund. That is obvious. There is no difficulty about it, and in that way everything will be made perfectly plain. I had this satisfaction and I think you will have—that it will at least satisfy a great many in this country and elsewhere who have investments in Indian loans to know that that course will be taken. And I should remind you also that it has a very important bearing on India's credit in this country, because, as you are well aware, Indian stocks are classed with our trustee stocks, which gives them the gilt-edged character, which undoubtedly, without attempting to apportion it in terms of the rate per cent., does enable India to raise money at a lower rate of interest than would otherwise be the case. It is very desirable for India that she should retain this position, that she should have the benefit of it, and I am very glad that you are willing to take the necessary steps.

The next thing I want to consider is the cost of the Army, and of, whatever they may be, any obligations of the State. By obligations of the State I mean obligations that the State has entered into, that India has entered into, that must be performed, and therefore are outside the realm of discussion. The cost of the Army is a matter which will have to be dealt with in the same way. It obviously must not be left open to vote, because that will lead to the very difficulties, in some respects only, we have encountered in the past. It will equally have to be charged on the revenues, and

in a form to make it possible for the Viceroy, with the assistance of whoever is advising him in carrying on the department, to defray the expenses of the Army without having to go to the Chamber, to either of the Chambers of Legislature, to get supply, in other words, a grant of a vote. I imagine it would equally be beyond discussion, because you have agreed that the Army and its cost must be entrusted to the Viceroy. You cannot give him the Army and defence to take care of, unless you also give him the powers to implement the obligations that are imposed upon him, one of the first of which is providing the money to meet the expenditure, which must be defrayed.

Then we come to a more difficult question in the realm of finance; that is as to future loans. I only want to say with regard to those that they are of two classes, internal and external. In the internal loan my notion is that, provided the raising of the internal loan will not affect the credit and stability of the financial situation in India, and is not for the purpose, let us say, of meeting a deficit of a budget instead of properly balancing a budget, there should be no interference; that is to say, there would only be interference, and the right of interference, in the internal loans if the raising of them were to affect the credit or stability of India, because either of the instances that I have taken would come within the language I have just used.

It seems to me that that is the way, and I think, if I may use the expression, not intending it in a political sense, the liberal way of dealing with it with the desire that we have to help India to manage her own affairs in the various subjects to which reference has been made, to which I will call attention a little later in detail, and to interfere as little as must be in the region of finance, in relation in particular to internal loans.

The question of external loans is a different one, because it means the loan has to be raised in sterling in this country, and it means that the Secretary of State, or, to use the expression which I prefer, *pace* Sir Muhammad Shafi, which would be His Majesty's Government, will have to be brought in to safeguard them, because they are obligations undertaken by India which have to be defrayed in this country. There I think the Viceroy will have to exercise a right of supervision and control. I do not see how you can help that, inasmuch as there are already these very considerable obligations incurred by loans made here for which provision has to be made, both to meet the interest and to meet the repayment of the loans. Also this question of the terms upon which it can be borrowed and the security which would be given has become of very great importance. A loan to be raised here, if His Majesty's Government has control over affairs in relation to this loan, would be on better terms than if it merely had to be raised on the credit of India, however good that may be. I do not myself anticipate that there would be much discussion or much difference between us on that.

..ow, what is left? First of all the question of the budg
irst, let me say that I raise no objection myself, not those w
e. On the contrary, I associate myself with the motion that the
ould be a Finance Minister as part of this Cabinet in the
ause in which the word has been used, that is to say a Financ
inister, Indian presumably, because he will in the selection of the
gislature, he must have the confidence of the legislature
ould be responsible collectively with the rest of the Cabinet to the
ederal Legislature, the obligation upon him would be to see that
ere was a proper budget placed before the Legislature. I do not
that mean that I would attempt to
at he may do in this or that direction,
cing a budget which will properly balance
ere may not be deficits, and that whatever
curred will be met out of current revenues
dar year that has passed or the year to come
ould have thought we should all agree because
ecessary for any country and
ere is a surplus budget then
ould be introduced and dealt with
lanced budget again I do not
terference It is only in matters
rence in the budget would
e question, because there must be
ansition stage through which
pecially with regard to exchange

Of course, as you know,
ant, one has to be very careful
atters of exchange it is especially
treme care, I do not want to discuss it here
any in India, from my knowledge
ntlemen I have met there who
vantages that may be obtained
ot suggesting for a moment improper
ey understand it and they know
re, one has to be careful, and there
ending the formation and establishment
a non-political lines, which will have
operation, of the exchange and of currency
be absolutely essential I daresay many of you
already with some who may have had more
f finance, and I think you will find that everybody will agree that
is essential in the interests of India I am speaking in the
terests of India: not in the interests of us at all It is in the
terests of India and India's credit that you must have this trans
period until you have set up your Reserve Bank That I
nk is all I desire to say on that portion as I do not want to go
it at any length

Mr Sastri May I at this stage ask Lord Reading what exactly
means by interference in the case of loans and in the case of

budget, and in matters affecting exchange and currency during the transitory period? If the actions of the Finance Minister in India are not correct according to the standards laid down by him, what exactly is meant by interference? You use the word "interference" pretty frequently throughout as being required during the transitory period if the Finance Minister did not keep to the straight line.

Lord Reading: May I try to make it clear, Mr. Sastri. When I spoke of interference I used a colloquial word because I felt it would convey better what I had in mind. Technically and constitutionally it would mean that there would have to be reserve powers in the Viceroy to meet the particular difficulties. That is what is involved. I am pointing out that, although you give those reserved powers, they would not be exercised in matters relating to the Budget. I gave as an instance that there would be no interference if you had a surplus budget or a properly balanced budget. On the other hand, I said there would be interference—by that I meant the use of these reserve powers—if there were a deficit, and it was attempted to meet the deficit by a loan instead of, as should be, by taxation. That is all I meant. You must balance your revenue and expenditure, and, provided that is done, there would be no interference. But this transitory period that I spoke of, Mr. Sastri, did not refer to that at all. What I was thinking in reference to the transitory period was of the period that must elapse between forming and establishing your Reserve Bank and getting it into operation, so that you can transfer your currency and exchange to that Reserve Bank, which would then have management of it. The transitory period I have in mind is to safeguard India, solely for that, during that period; otherwise you may have very great difficulty. Whilst that is going on, you must hold the position the Viceroy really would have to have control during that transitory period, but I am not asking for it for more than that. You should establish your Reserve Bank as quickly as you can and get it into operation as quickly as you can. Then would come the transfer of your exchange and currency.

Sir B. N. Mitra: May I ask you, Sir, what sort of safeguard do you contemplate in the transitory period? Is it a safeguard vested in the Governor-General; is that all?

Lord Reading: Yes, that is all. I am perfectly prepared to take any other method, if you can suggest it, Sir Bhupendra. Nobody knows better than you the value of the observations that I have been making upon this subject; you have had experience and you know what it all means. I have thought merely of the Viceroy's executive powers, because that is the quickest and easiest way of exercising it; but I am not particularly wedded to the form; there may be some other. It seems to me it is a desirable form, particularly as it is a short period. At any rate, he must be at the head; he must have the power to control.

Mr. Sastri: Yes, Sir, but apart from this power, pending the establishment of the Reserve Bank, you also contemplate the lodg-

nent in the hands of the Viceroy of powers of interference in th
ase of external loans?

Lord Reading: Yes.

Mr. Sastri: And internal loans if they do not observe certain
aws.

Lord Reading: Not if they do not observe certain laws, internal
oans only if they are internal loans to be raised at a rate which
affects the credit or the stability of India. It has a bearing on
xternal loans if your Indian loans are being raised at too high a
ate, or in an extravagant way.

Mr. Sastri: So that the transfer of finance, which in the earlier
part of your speech you seemed to countenance, is subject to these
restrictions?

Lord Reading: Yes, certainly. I think you must preserve
those. I do not want to dogmatize about it, there may be other
methods; you yourself are doubtless aware of the intricacies of
finance, and it is open to you to discuss the matter with anybody
else; but I do not want to elaborate these things. I am apprehen-
ure of discussing them in too much detail. I thought it was due
o you to point out, at any rate, what I had in mind and what I
anted to do, so that you might understand the kind of safeguards
nd reservations that I think are necessary for protection at this
oment.

I think, my Lord Chancellor that disposes of all I want to say
with regard to finance. The next subject that I must mention is
law and order. Here, if I followed Sir Tej Bahadur Sapru cor-
rectly, his view was that law and order has been transferred or
will be transferred to the Provinces, and each Province will deal
ith law and order within its own area, but obviously there will be
ccasions upon which a disturbance of law and order takes a wider
nge and affects a wider area, in which case it becomes not purely
Provincial question but also a matter affecting all India. In
at case, it seems to me, there must be power to deal with it,
notwithstanding that it has been made a Provincial subject.

In what I want to say now I think I am speaking in accordance
with what Sir Tej Bahadur Sapru said, but I am not quite sure
I think he would make law and order a Central subject, and there-
fore it would be dealt with by the Federal Legislature. That is,
ny question that arose with regard to law and order that had to
e dealt with by the Legislature or that had to be dealt with by
e Federal Government would come up to the Federal Cabinet and
that way, of course, to the Legislature to which it is responsible.
I am right as to the view he was putting forward, I should raise
objection to that. If that were desired I should be prepared to
cept it, but there must be an over-riding power, which is the
wer of the Viceroy to safeguard the peace and tranquillity
India, which is a duty that is imposed on him. He is respon-

sible for the safety and tranquillity of India, and occasions might easily arise when he would be called on to exercise this power which is in him, when the Cabinet has failed to deal with the disturbance.

I think I am paraphrasing his language, but my thought is travelling along the same lines as that of Sir Tej when I say this; at any rate, I take the responsibility of saying it if he has not. It may very well be that in your Cabinet in a time of disturbance you will find your Ministers disinclined to take a step which is necessary to curb agitation which may be going on. It may be that even in India the Ministers, if you will forgive me for saying so, will be human, and of course they may not like taking the necessary action sometimes, and the members of the Legislature may themselves be indisposed to take such a step.

In that case it must fall upon somebody, and the person who must take the responsibility must be the Viceroy, because the safety and tranquillity of the Realm are in his hands. It is he who would then have to act, and it is a further significant point that he, the Viceroy, is also the custodian of the powers of calling upon the Army to take steps, if they become necessary, for the preservation of law and order. Therefore it seems to me the right course would be to make law and order a Central subject, when the disturbance is of more than provincial importance and covers in that respect a wider range, whilst preserving at the same time the over-riding power in the Viceroy, which of course he already has, of taking such action as he may deem necessary for the preservation of law and order; that is, for the safety and tranquillity of the Realm.

It may even be necessary for him to issue an ordinance. So far I think I am right in saying—though I may have put it, perhaps, a little more emphatically—I am not in any way disagreeing with what Sir Tej Bahadur Sapru has said. I think that is right, and that position I am prepared to adopt. As regards ordinances, that power must remain. The Governor-General must obviously be able to deal with questions affecting safety and tranquillity. If I may refer to another point for a moment—I do so because I do not altogether like to let it pass without observation—Sir Tej Bahadur Sapru said nothing could be worse than what has happened in India during the last twelve months, referring to the ordinances and to the special laws which have had to be passed. I do not want to go into that, but I do desire to say it must be remembered that, of course, the Viceroy has had a very exceptional situation with which to deal. He has had to issue these ordinances and laws because of the condition of affairs and because he could not otherwise preserve law and order. In truth I imagine there is nothing a Viceroy dislikes more than to have to issue an ordinance. Nothing makes his stay in India more unpleasant than to have to issue special laws and ordinances. I should have counted myself happy indeed had I been able to get through my term in India without ever having had to have recourse to these powers. I do not want to say anything more with regard to this subject except that those powers must be preserved to the Viceroy.

There are just two further subjects to which I must very briefly ter. One is unfair or inequitable discrimination in commerce d commercial matters Of course, it may never happen, and if I ere dealing with those who are here present, I should feel quite nfident that it would not happen, but, as I have said, we have to prepared to meet all eventualities. There must be power given ere, not to see that favourable treatment is accorded to enterprises which British money is involved, enterprises in India in which, may be the British take part with Indians although the enterise is not exclusively British, but to safeguard those who are gaged in enterprises over there, and who have invested their oney in India, relying on the protection of the British Government, and of course relying upon India to deal fairly with them.

The way of doing that is perhaps not quite so easy to determine. occurs to me that it might possibly be done by a section in the ct, but you might have a convention If a convention could be rived at with regard to it perhaps it would be a little easier than itting it into an Act of Parliament, and it could then be embodied [illegible] nt which gave the constitution, [illegible] onstitution. If questions arose [illegible] night, because it is not a very gut matter to set to work to cover that kind of case), presumably would be a matter in which the Supreme Court which we are hinking of setting up might be empowered to determine, in which ase you would have a judicial authority free from bias which ould make its pronouncement on it I think it is essential you hould have some such provision. If you have anything of that ind it will make the flow of capital to India more free, and the ndertaking of Indian enterprises with capital which may be suplied, sometimes very usefully, for the purpose of helping enterrise, will be facilitated once you have given security that nothing nfair or inequitable will be done, and in that way you will help he economic and industrial development of India.

Sir Tej Bahadur Sapru If I may interrupt to ask Your Lordship a question, could not that be secured by a proper definition of Indian citizenship?

Lord Reading I am afraid not Indian citizenship would not, to my mind, meet the case; in fact, I find it difficult to imagine how any such definition would meet the particular kind of case we have in mind. We have to meet the susceptibilities of numbers of persons who have invested large sums of money in enterprise [illegible] India, and all you have to do is to satisfy them, as best you can by means of a document, that there will be nothing unfair or inequitable done to them. You must not forget—I hope you will [illegible] me for reminding you of it: it is not pleasant to have to [illegible] that at the present moment there is considerable [illegible] intimated to you at an earlier stage. We are not [illegible] who may be in the seat of power when this constitution [illegible] effect. We have had for some time political [illegible] Great Britain which take the form of a boycott [illegible]

which is one instance of how things might operate. I am not afraid of Mr. Sastri or Sir Tej Bahadur Sapru, or anyone like that proposing anything of that kind, but we have got to give security and that is the only way in which it occurs to me as possible—by some form (I am not wedded to my own suggestion) of protection of that character.

Sir Tej Bahadur Sapru: I am not opposed to the idea Your Lordship has been putting forward, but perhaps I may have a chance of explaining my view of the machinery by which this should be secured. So far as I am concerned, I am in favour of that convention to which Your Lordship has been pleased to refer, and also of a proper definition of citizenship. The two taken together might give absolute security.

Lord Reading: I should be satisfied with that. The only other subject to which I want to refer is one which I need only mention and need not elaborate at all, and is the protection of minorities. Here I am not thinking so particularly of protecting the Muslims; I am thinking of all the minorities and particularly the weak and ineffective minorities. There must be a power reserved to the Viceroy—it may perhaps be a question of whether it should take the form of a reservation of control, or whether it should take its place in a letter of instructions; I am not specially enamoured of the form I am suggesting—for that particular purpose. There must be reservation of power to the Viceroy to prevent anything in the nature of the oppression of a minority.

Lastly, there is a matter which I mention only because I am anxious to place our minds before you so that there may be no room for misapprehension as to what we mean. There is, of course, the power already in the Governor-General to withhold assent to a Bill or to reserve a Bill for the assent of His Majesty. That equally must continue, and in my view that must continue quite definitely as a power which is in him and not as a mere constitutional exercise by him of a function which is frequently described as using a rubber stamp. It is not that; he must really be able to exercise a discretion and be entrusted with authority to do it, and that power must be preserved. That does not mean any change; it only means the power will continue.

That really exhausts the various subjects to which I wanted to draw attention, but I would just remind you in conclusion what the effect of this will be, assuming that our Federal Constitution comes into existence and that we carry out what we have been discussing here throughout these important weeks. The result will be that India will have made an immense constitutional advance. There will be, first of all, autonomy to the Provinces, which will include law and order. That is a subject which was discussed when I was in India, and rightly or wrongly, it was my view at that time—and I take the responsibility for it that India was not ripe for it then. I do not myself think it is entirely without risk now; I think everybody who has had experience of administration in India

will be very sorry to say that, but we are prepared to face the risk and we are prepared to accept the view and to leave the Provinces to administer everything, including law and order, subject, of course, to the report which you have made

You may then say, "What else is there?" Let me remind you that if we proceed on the lines that I have been indicating you will have a very important advance indeed You have got responsibility at the Centre in respect of a number of subjects—not all; that, of course, is clear, it would be impossible to give all, and that has been properly recognised You have the important matters which are mentioned in the appendix to the Report on Federal subjects and which include such questions as customs and salt, currency and coinage, railways, shipping and navigation, posts and telegraphs, banks, development of industries, commerce, banking and insurance—I will not go through them all, but there is a very large and wide area of activity for the Federal Legislature, and a very great step in advance is being taken

In addition, there are the British Indian subjects which will, in some form or other, necessarily impinge on the Federal I do not propose to go into them There may be some purely British Indian subjects that will come up, but on a good many occasions when these are discussed it will be found they impinge on Federal subjects Personally, I have always found it a little difficult to picture to myself British Indian subjects which have no relation, direct or indirect, to Federal questions I have not satisfactorily answered my own question, but still I assume there will be such subjects, and certainly there will be subjects which are infinitely more British Indian than Federal, and which may be classified as British Indian. In respect of those equally there will be, in relation to the subjects of discussion, responsibility of the Federal Executive for both Federal subjects and British Indian subjects to the Federal Legislature, always with the reservations made

My Lord Chancellor, I desire to assure this sub-Committee that we have sought, to the best of our ability, to give effect to the aims and aspirations of British India, and to the desire of British India and of the Princes for Federation We regard it as a great step forward. To me the picture of all India, with its 320,000,000 people, is a most fascinating subject of contemplation in the future, unparalleled in the history of the world beyond a doubt, unparalleled in the history of federations, quite apart from population and area It is the first time, so far as my knowledge goes, there has been a definite attempt to make a Federation out of the composite elements of Federal subjects and unitary subjects It is not purely Federal, because of the British India introduction, it is obviously not purely British Indian or unitary because of the Federal subjects You have chosen to take the very wise step of avoiding the need for two sets of Chambers of Legislatures and two sets of Executive and of joining up in one great All-India That to my mind, built up on the lines, or on something approaching the lines, I have indicated and which were foreshadowed to some extent by Sir Tej Bahadur

[illegible] ponsibility to the Legislature with the [illegible] seems to me [illegible] less necessary. Responsibility has [illegible] [illegible] in the [illegible] [illegible] is [illegible] [illegible] [illegible] but the [illegible] and that is called [illegible] [illegible] dismissability [illegible] [illegible] defence and external affairs, according to [illegible] constitutionally will be responsible to the [illegible] words, finally to the Imperial Parliament here—[illegible] possible they have what is called constitutional dismissability. That is one type of dismissability they labour under, but he would put them also under another type of dismissability, being linked together with the other members of the constitutional Cabinet whenever the Legislature throws out the [illegible] it would not be honourable. They would [illegible] responsibility in two different ways. Now [illegible] would think it was not necessary at all. The idea justifying this is supposed to be that they would work [illegible] other parts of the Cabinet upon a system with [illegible] matters of major importance would come under a [illegible] experience and wisdom of [illegible] [illegible] than them. But that surely does not [illegible] that these Ministers should go out of office every time that the other Ministers go out of office. You were told quite recently a few minutes ago, that these Ministers responsible to the Viceroy—that is, the Ministers for defence and external affairs—may not vote and take part in the final decisions upon the matters coming within the scope of the Legislature. If they may not vote, must they go out of office when they are censured for it? In matters in [illegible] voting at all, but which they have merely [illegible] be asked to go out of office, especially [illegible] even if they went out of office upon such an occasion it is open to the Viceroy to reappoint them to the same office. In other words, is not there something almost comic in the idea that people who are thrown out at the front door should come in the next morning smiling through the window?

It is open to the Viceroy to establish the practice of summoning the members of his Cabinet from both sides always to confer together upon all matters. That advantage we can get without going through this comical element of dismissing Ministers and reappointing them straightaway—of dismissing them, in fact, for censure upon subjects which they have had no share in deciding, though certainly they have had a share in discussing.

Sir Muhammad Shafi: And in connection with which they may be in disagreement with the non-official Ministers.

Mr. Sastri: Yes. Then I suppose, Lord Chancellor, that we should not be in any hurry here to determine the exact number of members of the Cabinet?

Chairman: No.

are now attempting to transfer power from British hands to Indian hands, largely because the political situation has assumed a phase when such transfer seems inevitable. Now to whom should we transfer this power? Lord Chancellor, I wish to be clear on this subject, although I might make myself open to a little misunderstanding. I am one of those who sometimes, under the stress of feeling, rush in where angels fear to tread. It may be I say things which other people either keep to themselves or are able to express in diplomatic language. But let us take care that when we transfer power upon this occasion, we transfer it really to the representatives of the people of India. There is no doubt that we are all alike interested in the stability of the Government of India. None of us—certainly not I—is anxious that power should pass into the hands of those who will make political sport of the welfare and prosperity of India, and bring things to a crash, either because they do not understand the gravity of things, or because it just pleases them to bring about chaos. No, that is no one's intention. But at the same time we must really put power into the hands of the people, and it is that impression which above all else we must be anxious to produce. If we produce the impression in India, by the shape we give to the constitution here, that we are really transferring power to the conservative element in India, the element which is likely to hold it not for the benefit of the people but is likely to exercise it in a way to prejudice the advancement of the people, then we make, it seems to me, an irremediable mistake. That is another condition that I would lay down: That we must take care not to produce the impression that when power passes from British hands it passes into hands which are considered safe for the British still, but not into hands which may be construed to be the hands of popular representatives. That there is some risk of our producing, and I wish at this stage to sound the note of warning.

Certain remarks as to the nature of the composition of the Executive which Lord Reading made may have the unfortunate effect of producing this impression, and I wish, therefore, to refer to them in the very beginning, so that I may at least clear myself of this apprehension. When we constitute the Executive of India, should we lump together the irresponsible portion and the responsible portion, and allow the Indian States' representatives to take part in all affairs concerning British India as well, it might unfortunately wear the aspect to which I refer.

There are many other matters which are related to this subject which, if I had the time at my disposal, I would refer to at considerable length, but as they are all within our recent recollection I will merely refer to them in passing. From one remark which Sir Tej Bahadur Sapru made I beg leave most respectfully to dissent. It has received the assent of Lord Reading, and it is therefore with the utmost diffidence that I venture to criticise that portion of his remark. The idea that the Ministers responsible to the Viceroy for the subjects of defence and external affairs, which we propose to keep out of the scope of the Indian Legislature, should

Sir Tej Bahadur Sapru, constitutionally will be responsible to the Viceroy, in other words, finally to the Imperial Parliament here—but being so responsible they have what is called constitutional dismissability. That is one type of dismissability they labour under, but he would put them also under another type of dismissability, being linked together with the other members of the constitutional Cabinet; whenever the Legislature throws out that Cabinet these Ministers would also be dismissable They would r this dismissability in two different ways Now, I should think it was not necessary at all. The his is supposed to be that they would work in conjunction with the other parts of the Cabinet, meet together with them, and that all matters of major importance would come under a general discussion, the experience and wisdom of both sides being always brought to bear upon them. But that surely does not require that these Ministers should go out of office every time that the other Ministers go out of office. We were told quite recently, a few minutes ago, that these Ministers responsible to the Viceroy—that is, the Ministers for defence and external affairs—may not vote and take part in the final decisions upon the matters coming within the scope of the Legislature If they may not vote, must they go out of office when they are censured for it? In matters in which they have not been voting at all, but which they have merely been discussing, should they be asked to go out of office, especially when we remember that even if they went out of office upon such an occasion it is open to the Viceroy to reappoint them to the same office. In other words, is not there something almost comic in the idea that people who are thrown out at the front door should come in the next morning smiling through the window?

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Chairman: No

Mr. Sastri: We all know that in spite of virtuous resolution o economy political considerations have a tendency to add to thes appointments.

Chairman: Yes, that is so.

Mr. Sastri: We often have to reward our friends, worthily o unworthily, and it often takes the shape of an addition to Cabine appointments. Now, I would say that the practice in the Viceroy' Government of India of sending private and personal telegrams t the Secretary of State and of receiving private and personal tele grams from the Secretary of State, although if it had been entirel private and personal it would not have received any public notice has had to receive adverse comment for the reason that it establishe what may be called a secret government. Now, when there is constitutional cabinet there is no reason for these personal an private telegrams to assume the enormous proportions that the have assumed. I have it on authoritative information that thes private and personal telegrams often practically settle matters of th gravest consequence. They are placed before the Executive Govern ment afterwards, and it is very difficult for the members of th Cabinet to have a free and unfettered discussion and judgmen upon them, and when they thereafter pass into the hands of th Legislature the unreality of debate often becomes very clear. Th underlying considerations are hidden away in these telegrams tha have passed and that are never brought out, but which are presen to the minds of the Executive Councillors but not at all to others. We have in India often felt the inconvenience of these telegrams and cables discussing matters of grave importance. I do not know how this practice could be stopped, but it certainly, I think, must, both on the part of the Secretary of State and on the part of the Viceroy, receive some amount of restraint, because, as we know, the character of the Viceroy in future must be more or less that of a constitutional sovereign, and he should receive advice at first hand in regular constitutional style from the members of his own Council, and must no longer subject himself to influences from the British side.

Now, whether the Viceroy should preside over the Executive Council was a subject that received some attention. Not having been a member of the Executive Council of the Viceroy at any time, and never having been Viceroy, I am not able with inside knowledge to pass any useful remarks upon this matter. I should think, however, that as a rule the Viceroy might leave the Prime Minister or the Domestic Minister, as the case may be, to preside over these meetings, even joint meetings, when they should be held; but I would make no rule precluding the Viceroy, whenever he thought it necessary, himself from joining these discussions. While there should be no rule preventing him from presiding at these meetings, I think it would most conduce to the establishment of the character of the future Indian Government as a Dominion Government if, as a rule, he abstained from participation in the preliminary debates.

Now, I am one of those who think that for some time at least the Viceroy should be in possession of what may be called emergency powers, powers to intervene and set the constitution in working order whenever it is thrown out of gear. It is difficult for me now to say what kind of circumstances will constitute this emergency, but I can visualise, especially in the beginnings of our constitution after the violent state of political excitement through which [illegible] ng of a grave nature when the [illegible] powers and put matters right. [illegible] in the hands of the Governors as well, and I am generally in favour of a clause in the constitution vesting these powers in them; but when we go further, and try to follow Lord Reading into matters concerning the safety and tranquillity of the country, we come upon somewhat more debatable ground. Is it necessary, in the future constitution, to give the Viceroy the Ordinance powers, for instance, to which Lord Reading referred? I venture to think not, and rather agree with Sir Tej Bahadur Sapru in discountenancing the grant of the power to enact ordinances, irrespective of the Legislature, to the Viceroy in the future Government, for we are hereafter contemplating an Executive Government responsible to the Legislature, and the Legislature, knowing that it has power over the Executive, will come to realise its responsibility. The members of the Legislature will no longer be the mere critics, the mere irresponsible and extreme critics that they have been so far, and, it seems to me, that we must mark the beginning of the new regime by taking away from the Viceroy the power of enacting ordinances, which seems to me to be a negation of the existence of a responsible Legislature. I do not think that the power of enacting ordinances can justly be described as a mere emergency power. If we judge by the exercise of these ordinance powers so far I think they go much beyond the mere scope of the description of emergency powers, and I would therefore discountenance the grant of such powers in our constitution to the Viceroy.

I have next to consider certain questions relating to the grant of powers to the Viceroy not merely in respect of defence and external affairs, to act independently on his own account and under the orders of the Parliament here, but in respect of certain other matters to which Lord Reading referred in the final part of his remarks. For instance, with regard to finance he was pleased to observe that he would impose certain restrictions on the powers of the Government of India and of the Minister in charge of finance. Now, I wish to make a most earnest appeal to our British colleagues to consider what risks they run if they insist upon any of these safeguards or restrictions. In India every shade of opinion has come to understand that finance is the vital breath of all governments, and the removal of any part of responsibility for finance, even in the guise of a mere restriction or safeguard, will be deeply resented and regarded as an encroachment upon the rights of a responsible Government. I know that in respect of finance there are [illegible] apprehensions, and these apprehensions are not only in the hearts of the British people, but I can assure them that we also share

them. We know that finance is a very delicate matter, that it shares national credit, that it may repel capital, that it may make the raising of loans difficult; but more than all these, bad management of finance may also involve the country in losses which are not merely material but extend even to the ordinary sphere of reliability. We know all these things, and are resolved still to take the risks. I have been assured by competent authority that in India our Department of Finance is now manned so well, and has been brought to such a high pitch of efficiency and vigilance that it may be compared to the Treasury in Great Britain. I have also been assured similarly that our Audit Department, placed in comparative independence of the control of the Government of India, is able to exercise over all financial transactions a power of review which guarantees the strict and faithful observance of all the canons of financial propriety. Now, these two facts, of the existence of which there is no doubt, must give the outside world every confidence in the state of our Financial Department. Even a weak Finance Member, liable as he is to political influences, will be held in check by this powerful agency of the Financial Department, and I should think that, while no one can say there are no risks at all attendant upon the measure, yet it must be said that we shall start on financial autonomy in India with every chance of success in the establishment of our credit.

I am therefore positive that we should have finance transferred to the Government of India without any restrictions or safeguards, without any suspicions as to our capacity to manage our finances honestly or efficiently, and it is only if we are placed in untrammelled control that we can find ourselves truly in the new constitution. Of this I am pretty certain that not only I, but all people on our side of the table, will be equally confident. I would beg Lord Reading, whose motives in this matter I do not for one moment venture to doubt, and whose assistance in this matter I earnestly solicit, and his colleagues, and Lord Peel and his colleagues, not to make any difficulties in the matter of finance, but to let India, the whole of India, the whole of expectant and eager India, understand that if they transfer power they transfer it cleanly and wholeheartedly, and not subject to reservations which may carry with them the element of suspicion or distrust or grave fear of any sort.

Now there is a question with regard to the Services. The Services question has been referred to another Committee, but I think there is a matter of somewhat constitutional importance with reference to them to which I would take leave to make reference. In future, as I can see it, we are to be in India more or less in the status of a Dominion. We cannot, therefore, allow the Secretary of State to recruit our future Civil Services, or to regulate their conditions of tenure, or to stand guarantor for their good treatment or for their pensions. We are quite willing that these guarantees should continue in respect of those who are now in our service, whose service has begun, and whose service will continue till the new constitution begins; but, from the time that the new constitution begins to take shape, we think the Government of India should

[illegible] the place of the Secretary of State in this matter, that it is the Government of India that must guarantee the pensions, must guarantee good treatment, and that must regulate the conditions of tenure. Once more I will repeat that I do not wish to disturb the conditions under which those living in India who have already begun their official career are placed, but with regard to those who will be recruited in future I do think it would derogate from the position of a Dominion Government if the Secretary of State stood in that similar position.

Now there is only one very important matter which I have deferred to the last stage, and may I say that I refer to it with the utmost diffidence. I was very glad that in the speech of Lord Reading reference was made to the subjects of those powers that the Government of India now enjoys in respect of Indian States and which in your preliminary analysis, Sir, you put away under one of the headings, under the major heading of Crown subjects, that is, all matters arising or connected with paramountcy.

As I said, I wish first of all to disavow all idea of offence or causing embarrassment to any side represented in this Round Table Conference; but there is a very considerable school of thought in India, of which for the moment I wish to make myself the mouthpiece, which desires that the connection of the States with the Government of India should not suffer any rupture. Their connection is intimate, their connection is essential; their connection is the growth of history. It is a growth of the necessity of administration. If we change the Government of India Act and dissociate the Government of India, that is the Governor-General in Council, from exercising these relations with the Indian States, we shall, it seems to me, cause in Indian polity an element of confusion which there has not been hitherto. I admit that the institution of federation in India will change the aspect of things entirely, and, furthermore, the establishment of a Supreme Court of Justice in India, which perhaps will have as one of its chief functions the adjudication of differences between the Government of India and the States, or as between the States, will take away from the Government of India all such part of these functions as may be said in any way to be justifiable. That which remains [illegible] the hands of the executive Government of India in relation to the States will be matters purely of interference in case of [illegible] other serious juncture, matters which it seems to [illegible] still with the Government of India.

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I do not know what, in your adjustment of the programme of this Conference, is the proper stage when this Round Table Conference will discuss this most important subject, but, as Lord Reading has referred to it, I thought it might not be inappropriate if I follow up with a few remarks, in which, let me say, I voice the opinion of that large part of India's population, 70 millions, who are living within these States, but whom by a technicality we have excluded from participation in this Round Table Conference. They would desire that this question of paramountcy should be discussed

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upon its merits and not by any manipulation or technicality be removed from the scope of those subjects which are considered of constitutional importance to the future welfare of India.

(The Sub-Committee adjourned at 5.10 p.m.)

PROCEEDINGS OF THE FIFTEENTH MEETING OF SUB-COMMITTEE No. I (FEDERAL STRUCTURE), HELD ON 6TH JANUARY, 1931, AT 10.30 A.M.

Sir Samuel Hoare: Lord Chancellor, I am very much obliged to you and to the Committee for letting me speak at this stage in our proceedings. Unfortunately Lord Peel and I have to go to an engagement that we cannot escape at about a quarter past eleven. I hope that the Committee will not feel that it is any want of courtesy to my fellow members that makes us take that course, and I can say that Lord Peel is going to speak at a later stage in the debate, but he and I will, of course, carefully read any criticisms that will be made of what I say now and he will deal with them towards the end of the Committee's deliberations.

Lord Chancellor, I have learnt much during these discussions. For me, a layman in these Indian questions, it has been an opportunity of the highest value to see unfolded the prospect of a great constitutional experiment and to work side by side with so many able and distinguished representatives of Indian interests. No Englishman who has sat, week after week, with you gentlemen in this Committee, could fail to be influenced by what he has heard, or to be moved by the feeling of comradeship that has grown up between us. We now know each other well enough for each of us to say frankly what we might have hesitated to say to complete strangers. On your side, then, you will not misinterpret what I say to-day. On my side I will not hesitate to put before you what is in my mind at this stage of our discussions. I, like you, wish to see British pledges carried out in the spirit and the letter. I, like you, wish to see government in India broad-based upon the willing consent of its teeming population. I, like you, wish to see federation safely and surely installed for all India. Indeed, so sincerely do I wish to see this treble consummation of our wishes that I cannot be content with phrases, however attractive they may sound to this or that body of opinion, nor can I shirk the hard facts of the position that to-day confronts us. I have often thought that during the years that have followed the War, we have all of us suffered from the irresponsible use of words which sometimes meant nothing, and often meant one thing to one man and something quite different to another. I hope that in the new chapter before us we shall keep clear of such misleading phrases. With an equal honesty of purpose I hope that we shall face and not shirk the facts of a very difficult problem. You, Gentlemen, have told us of the hard facts that particularly confront you, the discontent that has driven thousands to prison, the economic boycott that is crippling India, the fervent desire of India for equality of status. I am not blind

to any of these facts. If I do not deal with them in this [illegible] is not that I shut my eyes to them, but rather that in the [illegible] that I have at my disposal I wish to put before you certain facts that particularly strike a British Conservative [illegible]

Mr. Sastri, always attractive, yesterday eloquent and, if he will let me say so [illegible] made an appeal to the Conservative [illegible] tion He was speaking of finance, and he was telling the Committee that the vital service of finance, and he was [illegible] safeguard to an Indian Executive and Legislature should be transferred [illegible] Peel, he said, "Do not you the Conservative [illegible] any difficulties in the matter of finance [illegible] Turning to our answer to his appeal, and it is an answer that [illegible] besides finance [illegible] Delegation [illegible] directions It is not we who make difficulties [illegible] give Mr [illegible] the purpose of retaining power [illegible] ceased to care for power as an end in itself [illegible] ial safeguards not because we wish to put difficulties in the way of India's advance, but because the difficulties are [illegible] e hard facts of gold and credit [illegible] sitate to make changes [illegible] l only because the difficulties [illegible] rent in the actual facts of India [illegible]

[illegible] will give the Committee two illustrations [illegible] press, and whilst it must not be thought that I [illegible] insuperable obstacles in the way [illegible] will see that they bear at almost every [illegible] questions we are considering to-day [illegible] so far as I know disputed by [illegible] ndia is not at present in a position [illegible] there is the fact—again denied by no one [illegible] that the great Indian continent is [illegible] and religions that have hitherto regarded [illegible] and sometimes even with hostility [illegible] situation are constantly reacting [illegible] As India cannot at present defend herself [illegible] the British Army and as the British Army [illegible] orders of any but the British Government [illegible] must be regarded as a Crown subject [illegible] drawn from the province of the Legislature [illegible] nearly half of the total expense of the Government of India [illegible] whole series of almost insoluble problems [illegible] made to create a responsible Executive. Should the defence Minister be in the Cabinet or should he not? If he is in the Cabinet how is it possible to reconcile his responsibility to the Crown with the responsibility of the other Ministers to the Legislature? If he is out of the Cabinet how is it possible to avoid dyarchy at the centre in an extreme form? So also with the reactions of the other fact that I have just mentioned and that I will describe in a single sentence as the Minorities question It seems to me that as long as there are these unfortunate divisions and suspicions in India [illegible] will it be necessary for the Viceroy [illegible] in the [illegible]

Minorities, to retain overriding powers. These overriding powers, however they may be defined, are bound, so it seems to me, to cause a deep breach in any system of responsible Government. Let me remind the Committee of what we British mean when we speak of responsible government. We mean, firstly, government by a unitary Cabinet fully responsible to Parliament; secondly, a Cabinet, usually dependent upon one party, and always dependent upon a majority or elected representatives in the House of Commons; thirdly, a system under which the Cabinet resigns, and usually dissolves, when the support of the House of Commons is withdrawn; fourthly, as the result of a dissolution, a general election in a small, thickly populated, politically alert country, with a clear issue between two or three party programmes, and a homogeneous electorate in touch with the candidates. It seems to me that without these conditions there is grave risk to any stability of government. Unfortunately none of these conditions appear to me to exist in India at the present moment. An Indian Cabinet will not be unitary in the sense in which we understand the term. It will be composed of nominated, as well as of elected, Ministers, and, if the Crown Ministers are included in it, it will be composed of Ministers who acknowledge two distinct allegiances. Its responsibility will be still further disintegrated by the inclusion of representatives of the various minorities. The safety valve of a General Election will not effectively operate, for a large percentage of the members of the Legislature will be nominated by the Indian States. There will be no clear issue between one party programme and another, for at present parties, in our sense of the word, scarcely exist in India at all. Gentlemen, the more that I think of the points of difference between the Indian position and the British position—and it should be remembered that almost only in Great Britain has our system of Cabinet Government proved even tolerably successful—the more formidable becomes my doubts as to whether such a system can really be made to work in Indian conditions. There is another aspect of the question that causes me grave disquiet. It is admitted, to a greater or less degree by everyone in the Conference, that if there is to be a transfer of responsible powers to the Executive certain safeguards must be retained by the British Government. I have said a word about the complexity of the administrative problem raised by the problem of defence in a system of responsible government, but there are also the no less difficult problems raised by the overriding powers of the Viceroy. I can only suggest the kind of difficulties that confront me by asking one or two questions. How, if the Viceroy is not to be the effective head of the Executive Government, is he to exercise his reserved powers when the opportunity demands it? If he has no administrative Department under him he will have no instrument for the exercise of his powers. Again, if he is not directing the course of events he may be called upon to exercise his powers as a result of the misgovernment of an administration over which he has had no control. If, on the other hand, he presides over a Cabinet that is responsible to the Legislature, he, and through him the Crown, will

be drawn into a dangerous relation, and it may be into actual conflict with public opinion. Gentlemen, I do not raise these difficulties for the purpose of making debating points, nor do I raise them with the object of being negative and obstructive. I raise them as a practical politician who wishes to be convinced that the constitution that he is asked to approve can actually work. It may be that by nature, being a very cautious person, I exaggerate the difficulties. Whether this be so or not, I am certain that the constitution suggested by Sir Tej Bahadur Sapru in his very remarkable speech would be so complicated, would be so vulnerable to the attacks of critics, and would be so full of anomalies such as I have suggested, that it would be workable only upon a basis of wide acceptance and substantial good will in India itself Have we at this present stage any evidence that this good will will be forthcoming? It is worth observing that a scheme very much on the lines suggested by Sir Tej Bahadur Sapru is actually propounded upon page 96 of the Government of India Despatch, and that the Government of India express their doubts as to whether it would meet in India with the acceptance and acquiescence that would be indispensable if it is to work. Gentlemen, if the Government of India express these doubts, it is not to be wondered at that a Conservative like myself wishes to be satisfied, firstly that the scheme is workable, and secondly that there is a reasonable prospect of its being worked. The fact is that from start to finish I am doubtful of the wisdom of attempting to apply a British House of Commons system to an all-India Federation When we discussed the composition of the Legislature I was against the setting up of a big popular assembly on the lines of the House of Commons I was against direct election, not because I am a reactionary diehard, but because I fear that the hard fact of the huge size of India, and the conditions of its population, will make any imitation of our political system impracticable In the same way I am doubtful as to the wisdom of attempting to impose our theory of Cabinet responsibility upon a Government that will differ in almost all respects from a British Government, not because I fear the transfer of further powers from Whitehall to Delhi, still less because I believe that Indian Ministers are inferior to British Ministers. I have not the least prejudice in this respect, and indeed I am filled with admiration at the ability of many of my Indian friends, but simply and only because I fear that the attempt will end in blurring [illegible] ng the Viceroy's position, and in making [illegible] a great continent in which there is much [illegible] table at the very moment when we are introducing the two great experiments of all-India federation and provincial autonomy

Lord Chancellor, holding these doubts, I should be dishonest if I did not express them; indeed, I should be weak-kneed if I did not ask you gentlemen from India even now to consider whether you are wise, in the interests of India itself, in pressing for a form of government that by its weakness may ruin two great experiments Are you wise in pressing for a form of government that has hitherto

been dependent for its success upon the peculiar conditions of nineteenth century England, and that even in England is already causing serious misgiving? Are you wise in pressing for a form of government that seems to be strangely out of harmony with the realities of all-India federation?

The great experiment of responsible autonomy is to be tried in the Provinces the reactions of which will be far greater than many of us imagine. Let it be tried in the most favourable conditions. A great experiment is being made at the Centre with the institution of all-India federation. I am a whole-hearted supporter of all-India federation; I wish to see it started in the best possible conditions, and I am nervous of a start being made with a weak government at the Centre. On the one hand, I have the doubts that I have just expressed; on the other hand, I am asked to accept a picture the details of which have nowhere been completed. On all sides at this stage in our deliberations are disputed propositions, unexplored suggestions, ragged ends.

I will only mention one or two of them. Will all-India federation be real and effective? I earnestly hope that it will be both; but at present I must point to the fact that none of even the main aspects have been filled in. What proportion of the States will enter? When will they enter? What proportion of members will the States have in the Legislature? Will the recruitment in British India of the Federal Legislature be on sound federal lines? These are vital questions, and until they are answered I find great difficulty in dealing with the question that we are actually discussing.

It is on this two-fold account—firstly, because of my doubts as to whether the system outlined by Sir Tej Sapru will actually work; and secondly, because at present I have not sufficient knowledge about certain vital aspects of all-India federation, that I am bound to adopt a non-committal attitude to the question of the responsibility at the Centre. I purposely say a non-committal attitude, for my attitude is not a *non possumus* attitude. Sir Tej appealed to us not to adopt a *non possumus* attitude. I respond to his appeal. I do not say that on no account and in no conditions would I ever agree to a particular scheme. I do not say that I would not be greatly influenced in my final answer by the completed picture when it is filled in, and by comprehensive and complete proposals that come to us from a willing India; but I do say that, with the information at my disposal and with my doubts unsatisfied, I cannot at present commit myself to a proposal that seems to be surrounded with so many practical difficulties, and is fraught with such vital consequences to the 300,000,000 men and women who inhabit India, and to the British nation that has taken upon itself responsibilities that can neither be forgotten nor destroyed.

Sir Tej Bahadur Sapru: You said just now that you were a very whole-hearted supporter of an all-India federation. Knowing as we do, the views which were expressed by His Highness the Maharaja of Bikaner and His Highness the Nawab of Bhopal, does he

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contemplate federation of all-India without any responsibility at the Centre?

Sir Samuel Hoare: I wish to see the completed picture before I give an answer to that.

Chairman: Now we must start and fill in the picture as well as we can for Sir Samuel He is quite right Now, Mr Jayakar, please.

Mr Jayakar: Sir, I am very thankful to your Lordship for giving me an opportunity of making my contribution to the debate at this stage. I am speaking, Sir, purely as a non-official, in many respects my political position is the same as that of the Rt. Hon Mr. Srinivasa Sastri, because I have never had the opportunity of studying the government from inside, as I have never been a member of any government either provincial or central My comments, therefore, are based upon my experience as a non-official member of the Opposition, both in the Provincial and in the Central Legislature. It is my misfortune if I am not able to contribute to the debate from the point of view of Sir Tej Bahadur Sapru or Sir Muhammad Shafi, who have had the advantage of having been at one time members of the Cabinet of the Viceroy I, therefore, propose to put before the Committee my views as regards the necessity of transferring responsibility at the Centre

Before I do so, may I say a few words about the excellent speech that Lord Reading made yesterday If His Lordshop will permit me to say so, the speech came to me as a great revelation, because it indicated a mind that was trying its best to inform itself, notwithstanding its pre-occupations, so as to be as helpful as possible in its contribution to the debate I saw a great mind trying to grapple with difficulties. I recognize, Sir, that at his age, and, if I may say so, at his social and political eminence, it must be difficult to alter notions which have been held for a whole life-time, and which have been based upon experience—most valuable experience—as a Viceroy of a great continent I was very closely following his speech, which indicated to me a day-to-day change and transformation of beliefs. The speech appeared to me to be very helpful No doubt there are points here and there on which an Indian like me may have a difference of view, and, as I go on with my speech, I shall make these points clear

As I heard the speech I felt what many of my friends here must have felt, that if every word of what he said here could be heard in India, 7,000 miles away, and could reverberate in the innermost recesses of nationalist ranks, I take the liberty of saying that some of the suspicion and prejudice as regards the attitude of the Liberal Party have on Indian Reforms would disappear hour by hour as his speech went on I wish further to say that a great deal of the comments which I proposed to make in my present speech as regards the necessity of transferring responsibility at the Centre are now made unnecessary after listening to that speech

Sir, my plea for transferring responsibility is that your present Government has become impossible There are reasons for it, of

which I need not go into the details, but in India we have arrived at a stage where the Government and the people have lost the confidence and the respect of each other. I do not wish to indulge in the language of exaggeration. I am stating that plain fact as a man who has sat on the Opposition benches, and who has seen the Government fail from day to day both in the Provinces and at the Centre, and the mutual distrust and suspicion which go on increasing from day to day between the Government on the one side and the people on the other. This is, if I may say so, a vast wastage of energy and power. I need not put it on a higher ground—the immense wastage of intellect, power and energy both on the part of the members of the Government and on the part of the Opposition, that has struck me as the most important plea on which responsibility at the Centre could be asked for.

Sir, I have watched year after year, both in the Provincial and in the Central Government men of intellect wasting their talent in making wild and irresponsible speeches, because when you have an irresponsible Opposition all that we have got to do is to make wild speeches. I have seen men on my side—and I think it is a tragedy—men who would have adorned any office, however high, and men who would compare with your best men without any disadvantage to themselves, men whom nature meant to be in very high office with their constructive talent, their patriotism, their non-communal attitude, men who have devoted 30 or 35 years to public life, wasted in the Opposition because not one title of constructive power or responsibility was in their hands. They made splendid men in social life, on municipal corporations, on public bodies where your Government had invested power and responsibility, but when they came into the Legislature they found themselves absolutely impotent and practically driven by the political necessities of the constitution to make as wild, as irresponsible and as hot-headed speeches as they possibly could. That is the irresponsible Opposition in India. On the other hand there is the irresponsible Executive. I have been personally witness to men in the Civil Service who have, *e.g.*, thirty years' experience behind them, in charge of portfolios, men who wrote beautiful minutes and files, but had never to deal with men face to face as we have to do at the Bar, openly confessing to me that they were transplanted into an atmosphere in the Legislature which was entirely foreign to them, possibly at the age of 50, men immensely talented, but, being irresponsible and unable to understand the popular point of view, bungled hopelessly. That is another instance of wastage of power and intellect on the side of government. My plea, therefore is based on this, Sir, I want to stop this wastage going on in India.

Another important circumstance is this, and I should like to say this especially to our friends of the British Delegations who have been drawn from the best part of British public life here. Under your present government you do not give my country any opportunity for the aggregation of parties on rational principles. Your present system drives all of us into a herd, the only nexus amongst us being opposition to government. Well I hold strong views on

social legislation. Whether we are social reformers, or labour men, or communists, or bolsheviks or landlords, we are all driven into the same political party, who, if there was responsible government in India wo
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experience? I belong, in the Legislative Assembly, to a very highly advanced political party next after the Congress party, called the Nationalist Party. I do not wish to be unnecessarily reminiscent of my own experiences, but just to illustrate the point I am making I will mention some details. We all voted together on political problems, all in a solid body. But on those very rare
. come up, and social legis-
ed against one another. I
two kinds of reputation.
In this country I have gained the reputation of being a communalist. In my own country I have, on the contrary, the reputation of being an ardent social reformer—recognising no caste or creed—two somewhat contradictory reputations to enjoy; it is my misfortune But I had the the good fortune of introducing into the Legislature several pieces of social legislation which went underneath the accepted doctrines of Hindu society and Hindu law Will you be surprised, Sir, to hear that when those questions came before the Indian Legislature my own party men were my strongest opponents, and they voted down my proposals? And will you be further surprised to hear that on the official side I found some of my best supporters for social legislation? My party went to absolute pieces and totally disintegrated on these social questions Men who were my leaders and my associates on all political questions voting solidly together in the some lobby, made the strongest speeches against my own legislation, and we found for the first time, when a non-political question was on, and Government left its adherents free to vote as they liked, this solid party of Nationalists disintegrating into opposing groups, virtually ranged against each other.

Therefore, my plea, Sir, is this. Your present system does not give any chance to Indian politicians to aggregate on sound rational principles. We are all driven together by one common sentiment of opposition to government. Any stick is good enough to beat the Government with I want that system to be removed, because it is a great wastage, because we have now come to a stage—I am very sorry that Sir Samuel Hoare has to be absent, I should have liked specially to have mentioned this for his information We have come to a stage when your system of government has become incapable of producing any further good It has outlived its uses. It might have had its uses at one time, but it is incapable of producing c The suspicion and distrust with which it is surrou werless, and even necessary legislati because it is opposed by distrust and suspicion. I will recall to your minds two pieces of legislation. One was called the Public Safety Bill. The Govern-

India that the safeguards which England was proposing were dictated, not by any selfish desire on the part of England to retain power for itself, but by a genuine desire for the welfare of India, and that the safeguards were suggested in the interests of India, I have no doubt that even a man like Mr Gandhi would say: "I am not prepared to take up this responsibility for the present. I do not wish to bite off more than I can chew" If such a favourable impression could be created I think that that would be the position. How to create that impression is a difficult question, but not beyond British statesmanship I am anxious, therefore, that any safeguards which are suggested should be guided by one principle, *viz.*, that it should be absolutely obvious to India that they are dictated, not by any selfish desire on the part of England to find employment in India for its young people, or to retain power in its hands, but solely in the interests of India If you could make that atmosphere possible, and suggest safeguards which India could accept through her big men, many of whom are not here, I have no doubt that of her own accord she would say "Well, in that case I am prepared to leave this power alone for a few years, until I gather experience". I am, therefore, making this general comment. You, Sir, have allowed Sir Tej Bahadur Sapru to detail a good many small points with which I am in agreement I do not wish to go into details This is not the time for it But I will say this, that when it was said by Sir Tej Bahadur Sapru that the Army and foreign and political relations should be reserved I knew what he meant, but I am not sure whether we are all agreed as to what we mean when we say that the Army and foreign and political relations should be reserved. There are aspects of the Army Department which I am quite sure that many in India will agree should be reserved. I do not wish to go into minute details and tire your patience. There are on the other hand other parts of the Army Department which I am quite convinced it is not necessary to reserve at all. For instance, speaking of the actual use of the Army, the calling out of the troops, to which Lord Reading referred, either for internal tranquillity or for external operations, I believe that you may find a large consensus of opinion in India will agree to its reservation for a few years So also on its technical side, about which, by an evil system of Government we have been kept completely ignorant for all these years, so much indeed, that if by mistake I leave a revolver on my table my servant will refuse to go near the table out of sheer fright, such is our ignorance of military affairs and of firearms This being the present condition, the technical side of the Army might be reserved for a few years into the hands of the Crown. But, surely, the same argument cannot apply to many parts of the Army. For instance, just to detail a few, there are the following: the volunteer movement, our auxiliary and territorial forces, the supply and the control of the reserves, military education, the maintenance of what you call Sandhurst in your country. There are many other questions which come under the Army Department. All these are grouped under the head "Army" but surely the same argument cannot apply to these

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Departments of the Army. I am only mentioning my point of view so that it may not be said hereafter that we did not put our point of view before you. I do not wish to strike a discordant note, but you, Sir, have asked me to speak. I have a difference of opinion on some points, and it is necessary to mention my points of view. If I do not mention them, when these details are being considered later on, and I suppose that some expert Committee will have to consider these details, it might be said that the Indian public men who were here did not detail these points for the consideration of the Committee.

I am mentioning these points in order that that might not be said. I am simply mentioning that when the Army is reserved, what I mean is that the use of the Army and technical questions relating to the Army may be reserved, but that does not mean that all Departments which go with the Army, some of which I have detailed, need be reserved. I do not wish to go into further details. Coming to the main [illegible], with regard to which I am in agreement with Sir Tej [illegible] Sapru, that there should be a member in charge of this [illegible] temporarily [illegible] le to the Crown represented by the [illegible] do not w[illegible] the number of [illegible] for which h[illegible] sponsible [illegible] is a matter of [illegible] hich exp[illegible] sides [illegible] I entirely agree [illegible] Tej B[illegible] suggesti[illegible] very glad that [illegible] accep[illegible] h [illegible] d Reading. I [illegible] the s[illegible] Sir [illegible] Sapru has made [illegible] one, [illegible] Re[illegible] at first [illegible] le ill[illegible] le [illegible] ave given [illegible] it a[illegible] for this [illegible] the [illegible] up c[illegible] into [illegible] ore [illegible] the [illegible]

league with this member. I have seen an experiment in your own country, Sir, of a person who had never had any military training, or military attachments, a person who, if anything, was distinguished for his fondness for German philosophy and forensic skill. You sent him to the War Office without any military training May I say, although he is dead, that he was a person greatly respected in India for his philosophic training and his liberal outlook? He made a very successful War Minister, although he became very unpopular during the War with Germany I want that experiment to be tried in India No one would have suspected that Lord Haldane would have made such a successful War Minister. I have read his autobiography. I want that experiment to be made in India. How did he succeed? He mentions it himself
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and which he was well fitted to
experiment to be made in India
of a non-official to be placed in charge of affairs He will bring into the common output the non-official point of view The Commander-in-Chief will be working in complete league with him and in harmony with him. The Commander-in-Chief and the military officers will bring in the technical knowledge and skill I submit, Sir, that unless I am seriously wrong, and the working of the experiment will alone prove that I am wrong, it will be an ideal combination, a non-official drawn from the non-official ranks, accepted by the people at the top and working in complete harmony with the technical skill and knowledge which the Military Department provides, including the Commander-in-Chief I see no difficulty on *a priori* grounds why this experiment should not succeed to the same extent as in your country, especially now that the
a hereditary talent for military affairs
us some military men as their repre-
greater chance
ented in
of being successful than it entirely
the Legislative Assembly. pru, that
agree with the suggestion made by Sir Tej
such a member should be made jointly responsible with the Cabinet.
It will have a great effect. It will be the introduction of the thin
end of responsibility in his office, even during the period of transi-
tion. Although responsible to the Viceroy, he will gather a great
deal of wisdom by being in daily contact with his associates, from
amongst whom he was drawn. A great many of the objections
which were raised to Sir Tej Bahadur Sapru's proposal will dis-
appear if my addition to that proposal is accepted, namely, that the
member is taken from the non-official members of the Indian Legis-
lative Assembly. He will be one of them. He will have been
called on to hold a portfolio which is of the utmost importance, and
he will be in daily touch with what his colleagues think in the
matter. In my opinion, it will be a most valuable experiment to
try. After all, there is no risk from the British point of view

because ultimately the Viceroy is responsible for the decisions. The Viceroy will be guided in his decisions by the Commander-in-Chief and by the military experts. Therefore, so far as decisions are concerned, I do not think that there are any grave risks involved. The Viceroy will be acting in complete conformity with the views of the Military Department, and will be guided by your Parliament in this country. Subject to that small change, I submit that the proposal of Sir Tej Bahadur Sapru is eminently sensible.

I come now to the important question which Lord Reading raised, namely, that in military finance and military expenditure there ought to be a reservation as regards two matters, so far as I could gather from His Lordship's speech, *viz.*, as regards the reduction of the strength of the Army and as regards the reduction in military expenditure. Sir, I ask my friends to give serious consideration to this proposal with which I do not agree. At present we are spending 55 crores of rupees out of 130, giving rough figures. I think that it is a great drain upon the revenues of India. I am looking forward to a great many economies being rendered possible in this military expenditure with the establishment of a more popular form of government. I think that we ought to provide by some means which our experts may suggest for the reduction of this expenditure consistently with safety and tranquillity on our borders and inside. For instance, supposing in course of time, when a popular government comes into existence, we have a system of military training in the form of conscription, making it unnecessary to maintain such a large standing army; supposing, again for instance, your labours, Sir, in this country to bring about general disarmament succeed, as I hope they will do some day, and we are caught in the effect of such general disarmament; why should not India make some economies in that direction? Supposing a further possibility, that with a more popular form of government established in the country, and a person of the eminence of Sir Muhammad Shafi, once more in the Cabinet, by means of his influence in the Muhammadan world is able to establish tranquillity on the Frontier, so that the frontier menace is reduced—I am giving possibilities only—why should not India have the chance of reducing, in view of such circumstances, its huge military expenditure?

I am therefore suggesting, Sir, what I think is a very modest proposal, that the military expenditure should be allowed to be revised periodically. I am quite alive to the anxiety which some Englishmen feel that a popular assembly coming into its own for the first time will take steps to have speedy reduction of the military expenditure; for instance, I have discussed the matter with Englishmen, who have said: "If you come into power, at the very first sitting you will reduce the expenditure of 55 crores to 25 crores, and thereby impair the safety of the land". My only reply is: "Wait and see. Some of our men, being entrusted with power, will become most discreet. You have never given them a chance so far". However, I am alive to this danger, and I am therefore suggesting two things: that there should be a periodical revision

of our expenditure, and experts on both sides or an independent tribunal should find out every three or five years what reduction could be made both in the strength of the Army and the money which we spend for the purposes of the Army I am sure that in course of time we shall be able to release a part of this money which at present is closely tied up. The second thing I would ask, Sir, as is possible to do with the aid of the experts available in my country and yours, is that a definite period should be set for complete Indianisation of the Army. That would be a great solace to India. I know the difficulty of accepting dates beforehand and in advance, but I do not think it is impossible An experiment was tried by a committee of my countrymen some years ago, but having regard to the change of circumstances which has taken place since then, the proposals of that Committee are not now quite suitable with reference to the period they provided But I do not think it ought to be very difficult to give India that solace It would be a great solace to my country if we could say that at the end of so many years the Army will be completely Indianised It will go a long way to restore the confidence and good will of the people

Then coming to foreign affairs, which is the other topic to which Sir Tej Bahadur Sapru referred, I am quite agreeable to its being reserved, but with modifications which I shall mention If "foreign affairs" means the right to declare war or peace, or, to use [illegible] nat [illegible] in [illegible] has much of a practical necessity of declaring war or peace I hope it will never declare war on anybody Indian ideals are not for war. I do not think it is practical politics at the moment to bother about the right to declare war or make peace It is not an urgent practical problem at the moment, and may not become so for another ten years Therefore, if by "foreign affairs" you mean the right to declare war or peace, or international obligations, about which there cannot be much controversy, I think you will find a large consensus of opinion in India in favour of this reservation But here I would sound one warning, if it is possible to do so, that, while the Viceroy retains the power to declare war or peace, there should be at the same time something in his Instrument of Instructions, to make sure that in doing so his sole concern will be the benefit of India and that he will consult public opinion. We are anxious, Sir, that, as the Dominions have said from time to time, and we watched it very carefully in our country, India should not be drawn into a war unnecessarily. Therefore, although we are prepared to put the power into the hands of the Viceroy for a time we should like that power to be coupled with a warning that India may not be drawn into an unnecessary war except for her own interest and after consulting his Cabinet.

So far it may be reserved, but there are certain topics which I am sure further consideration will lead us to believe it is not necessary to reserve. Take, for instance, the question of Ambassadors That subject comes under foreign affairs: the personnel of Am-

bassadors, the Residents in Indian States. Sir Tej Bahadur Sapru will tell you that even under the present form of government, an idea was mooted which was supported by many Rulers that the political Residents should be Indians. They belong to foreign services. There is an idea of trade commissioners going out of India. That idea was mooted when I was a member of the Indian Legislative Assembly; it was suggested that India should appoint her own trade commissioners in different parts of the world. The same remark applies to the recruitment of services belonging to foreign affairs, the Ambassadorial services. Sir, I do not see any reason why that should not be transferred to the Government of India.

I do not wish to go into the somewhat debatable ground as to the relations of the Indian States and the rights of paramountcy of the present Government of India. I am sure the Indian States will have confidence in the Government of India as altered; I am not without hope that, with mutual confidence and trust, the Princes will not have much difficulty in regarding the future Government of India with the same confidence as they do the present Government of India. But I do not want to go over that debatable ground at the moment.

Then I come to the question of finance. With regard to debts, I am in complete agreement with Sir Tej Bahadur Sapru that all debts which have been justly and lawfully incurred, for the sake of India, and of which India has had the benefit, should be paid by India. I think you will find a very large body of opinion in India which will favour this view. I had a talk with the present Finance Minister of India, and he went the length of saying that most of the debts that were created for India took the form of productive works like railways. I do not think there is any need for fear; he said to me he did not think India need be afraid. But I am sure that if a close scrutiny of India's debts were undertaken by an independent tribunal, we might be able to escape some debts on the ground that they were for Imperial concerns.

I should, therefore like some latitude to be left, Sir, so that, when we come to that stage of mutual understanding, an enquiry may be instituted to find out the debts which have been incurred for Imperial purposes, and of which countries other than India have had the benefit. With regard to any such case, when that arises, I do not see any reason why such an enquiry should not be taken up by an independent tribunal as to what part of the debts India should bear, and what part another country like England or Burma should bear, for instance, to take only one instance. We have had to create a debt for the Burmese war, and now Burma is going out. I do not see any reason, when that stage of confidence and trust is reached, why there should not be an enquiry as to the incidence of certain debts in proportion between India and England, or between India and any other country.

There is a great deal of misunderstanding caused by the word "repudiation," Sir, as Sir Tej Bahadur Sapru will join with me

in saying When we were carrying on the Gandhi negotiations, it caused a considerable amount of trouble. What is meant by "repudiation"? If I may say so in fairness to those who used the word, it is not that they do not want the debt to be paid to the investors. The word "repudiation" goes a little too far. What they mean is that there should be an enquiry as to what proportion of these debts England should bear and what proportion India should bear. There is no question of expropriating the investor. There is no question of not paying the investor any money, nobody suggests that. All that is suggested is that an enquiry may be made in respect of certain debts I will just give a few instances. There are the debts of the Burmese war, the war in the Sudan, Egypt, Abyssinia. Two or three instances were mentioned by Sir Tej Bahadur Sapru from his inside knowledge of things—the South Persia Rifles, capitation charges, employment of troops outside British India for purposes of an Imperial character All these are important questions. I am aware that the time has yet to come to go into all these details; I am merely mentioning them in order that in future *it may not be said that I did not sound this warning.* When we come to that stage I see no difficulty at all in establishing such an independent tribunal

Lord Reading · May I ask you a question, Mr. Jayakar, on that? Do I understand you to say that those who made use of the term "repudiation" in Congress were only referring to possible enquiries of this kind.

Mr. Jayakar · Yes

Sir Tej Bahadur Sapru · May I say one thing, Sir? When we were carrying on the negotiations with Mr Gandhi, we discussed these things at great length. I will beg your attention to the correspondence that has been published and to the statement which has been issued by His Excellency the Viceroy I did not understand Mr Gandhi to say that every penny was going to be repudiated.

Lord Reading No, he never did say that

Sir Tej Bahadur Sapru What Mr Jayakar says, was the impression created on our minds Indeed, Mr Gandhi took exception to our using the word "rupdiation" of debts or to the Viceroy interpreting them in that way I believe that correspondence has been published.

Lord Reading: I am aware of that, Sir Tej, but, if you will forgive my saying so, that does not quite touch the point I am on What I wanted to know was, not so much what the conversation was between you and Mr. Gandhi, which I can quite understand might put a different complexion upon what had happened I am talking of the public speeches that were made at Congress What I was asking Mr. Jayakar was, whether I was to understand by his observations that repudiation as used by those at the Congress in the programme that they put forward applied to a part of the debts, that they merely intended an enquiry for the purpose of ascertaining how much of a particular war debt should be borne by us.

Mr. Jayakar: Yes. I am sorry I have not my books here, but I may mention to Your Lordship the resolution of one of the Congresses; I think it was at Lahore.

Sir Tej Bahadur Sapru: Lahore and Gaya.

Mr. Jayakar: I am speaking of the Lahore resolution. I am speaking from memory. I have a recollection that the Congress made it clear that all that it meant by the word "repudiation" was that enquiry should be made as to whether England should not bear a part or whole of these debts, and secondly, a warning to future investors not to lend money without enquiry, or something of that sort. I have a recollection, but I shall be able to send the Resolution to Your Lordship as soon as I can lay my hands on that.

Lord Reading: I am much obliged.

Mr. Jayakar: That is my suggestion; I think that some provision ought to be made for these matters when we come to that stage.

Coming to the question of the currency, to which reference was made by Sir Tej Bahadur Sapru, I quite appreciate the necessity of stability, provided it does not mean that India has not the right of correcting any wrongs which India thinks are wrongs. For instance, measures relating to the rupee ratio of 1*s.* 4*d.* and 1*s.* 6*d.* There is a very strong feeling in the country that that provision was foisted on the country in spite of the united opposition of the people. While I am very anxious that there should be no instability introduced into the new government, I think that India has the right to correct any wrongs which it might think require to be redressed. To take another case, there is the gold standard reserve in the country. A considerable amount of trouble has been caused in reference to that. Therefore, without going into details, while I agree in the main with the suggestions made by Sir Tej Bahadur Sapru, which have been accepted by Lord Reading, I still wish that on these matters liberty should be left to India to redress these grievances if necessary by an enquiry by independent and expert men.

As regards salaries and pensions, I am in main agreement with Sir Tej's suggestion. As to the pensions, I take the view, which a good many men do, that a pension is a part of the salary which has accrued from year to year; and I see no equity in depriving the men who have served India for a long time of the salaries which they have earned, or of the pensions which they have earned, those pensions being merely salary in another form. But I should just like to sound one warning. I do not think it is wise or fair to expect that they will be paid through the same medium as exists at present, or at the same value of the rupee that exists at present. That cannot be. I will frankly sound this caution. These are now paid in a medium or in values which, in course of time, owing to the economic necessities of India, India may change. When India is a self-governing country, they will be subject to changes due to circumstances which will be absolutely above board. Subject to this and such other economic considerations, I entirely agree that

India should have the obligation to pay these salaries and pensions which have been earned.

There is here one matter which I should like to mention, because I am mentioning one or two details Many of these pensions at the present moment are not subject to taxation By a clever interpretation of the Indian Income Tax Act, many of them escape taxation. To give only one instance, I am quoting from memory, speak open to correction. Where a pension or salary which has accrued due in India but is paid in England, the recipient not being resident of England, he does not pay Indian income tax at present. You may call it an anomaly, but it is there. Such payments have escaped taxation so far If India hereafter passes an Income Tax Act under which are caught up some of these pensions or salaries, which have escaped so far owing to a narrow interpretation of the Income Tax Act, it must not be said that we have gone [illegible] country a large [illegible] at least a few— [illegible] by the change of government. Subject as above, we are willing to pay these pensions and salaries.

Then, coming to one or two points before I close, there is the question of the Viceroy presiding over his Council That is a subsidiary point which was raised I have given some thought to it, and I have come to the conclusion that although there should not be any definite rule preventing the Viceroy from presiding, it is advisable that he should not preside at all except on the few questions which are reserved I should like the Prime Minister to meet his Cabinet without the intervention of the Viceroy I expect for the first few years there will be a lot of party strife going on in India, and many of these party questions would be much better discussed without the Viceroy being present at the meeting In those departments which will be reserved, it may be for some time necessary that the Viceroy should preside, and I have no objection to that. But in matters which are transferred to popular control it is better to leave freedom entirely in the hands of the Prime Minister to evolve policies, which may very often involve party considerations, and the Viceroy's presence at those conferences would not be helpful.

Then there are [illegible] with regard to wh[illegible] loans, internal an[illegible] As regards intern[illegible] safeguard in the [illegible] far as I could gather; I may be corrected, Sir, if I am wrong. As regards internal loans, Lord Reading said that if there is a deficit budget, and a Minister in charge of it wishes to raise a loan in order to meet that deficit, instead of meeting it out of revenue, the pow[illegible] hands of the [illegible] nk it is necessa[illegible] ved, in

the new Legislatures and their working I think there is enough power of correction against such occurrences. First of all, if you give that Minister some time he will soon discover that it is bad policy to do so; the investor will not lend any money; but more than that, Sir, a keen Opposition in the Legislature will correct him without much difficulty. I should leave that question to the Legislature, the Opposition and the investing public. I do not think there is much need to give the power to the Viceroy to correct this evil. So far about internal loans.

As regards external loans, I quite agree that on all occasions when India wants to borrow with the help of the Treasury here it must satisfy the Treasury as regards safeguards. At present I understand that Indian securities are put in the position of gilt edged securities. Well, if India wants to retain that advantage and to borrow in England through the intervention and the help of the Treasury in England, I see no difficulty, and I think it is equitable that India should then be required to conform to certain requirements and to satisfy the Treasury and the Government here that it has got enough security against which the debt can be issued; but, at the same time, India ought to have the liberty of borrowing in the open market if it wishes to do so apart from the intervention of the Treasury. I do not think that when Australia became free and Ireland became free you curtailed the liberty of these countries to borrow independently of you. Even now, I understand, Ireland is borrowing. Well, if India has security, if it has credit in the lending world, it will get money; she ought to have freedom in these matters. If, however, it wants to borrow through the intervention of the Treasury there is equity in requiring India to conform to certain safeguards in the hands which will be made use of for the purpose of satisfying the investing public.

Lord Reading: Would you mind telling me upon that, Mr. Jayakar, so that I may follow you, do you advocate, then, that there should be a power to borrow independent of any right of limitation here? I quite understand that you may say that India may choose to borrow in America. Well, in one way we may have nothing to do with that, but the loan that she is going to raise in America will require charges of some kind which affect the charges which will be made for the sterling loans.

Mr. Jayakar: I am speaking of the case when America lends money to India apart from the intervention of the Treasury; I am not speaking of its repercussions on sterling loans, I am only speaking of the power to borrow outside in the open market.

Lord Reading: I do not want to pursue it. All I want to point out is that if you give them that power it naturally affects the credit and stability of your loan in this country. If I have invested money in India on loans secured by the Secretary of State, and then I am told that you are to have the power to borrow wherever else you like, then my security is lessening in value all the time.

Mr. Jayakar: Quite true. If I may take a legal instance, it is the same position as a first incumbrancer. His security is affected

by the subsequent incumbrancer. The case does not go beyond that. It is something like a first mortgage security being affected by the mortgagor entering into a second mortgage. It does not go beyond that.

Lord Reading: Well, I do not quite agree with that, because with your mortgage, you mortgage a particular property. When you are dealing with India you do not mortgage a piece of India; you give a charge on all the revenues I do not want to pursue it. I only want to point out that it is a thing you must bear in mind if you wish to do it. You have got to consider how far the loans could remain, as they were with us, trustee loans, and how far they could remain at the present rate of interest. However, we need not discuss it across the table; but it is important

Mr. Jayakar: I will only say this, Sir, that if the borrowing in any way affects the trustee securities here, we may have to devise some safeguard, but I should like India to have the power of borrowing in the open market, subject, of course, to such limitations as experts may suggest in the interests of India and the investing public. That is all I wish to say at the present stage I am not an expert in these matters. I think that India will have to be satisfied with the position that the Dominions occupy in such cases.

There is only one point which I wish to deal with before I close, and that is the power to promulgate ordinances, to which reference has been made. Well, my own opinion is that when you have popular government, this power need not be reserved in the hands of the Viceroy at all At present the Viceroy, if I may speak of past instances, has issued ordinances when he felt uncertain whether, or it was clear, that the Legislature would give that power to the Government. I will give one instance, the Public Safety Bill. The Indian Legislature refused to pass the Public Safety Bill, with the result that the Viceroy had to issue an ordinance But when there is a popular Government, and it thinks that some measure of that kind is necessary, it will be able to get support if it is in the majority in the House.

Lord Reading. It goes much further than that.

Mr. Jayakar: I do not think it is necessary under the new Government to have these powers. On the contrary, they have always the effect of largely reducing all the sense of responsibility of the Government. In very extreme cases, I quite agree, *e g.*, in grave emergency cases there should be a power reserved to the Viceroy. To take one instanc [illegible]
are affected on a [illegible]
break-down, some [illegible]
during the transition period, but that need [illegible]
ordinances.

Another point which was raised was that of unfair discrimination in commerce. Well, I know that there has been a great deal of controversy raised in this connection, but the fear of such unfair discrimination could be met by an adequate definition of citizen-

ship. I would only say in general terms that, consistently with t liberty of India to develop its resources to the fullest possible ext and to regulate its own tariff and taxation, with power to redr past wrongs based on unfair discrimination against the Indian, is fair that nobody should suffer in India on the ground of his ra or nationality. But India must have the right to regulate its o tariff and to determine its own policy. Subject to this; I ag that those who have invested money, or who have set up a busin there, should not suffer on the ground that they are non-Indians.

There is only one little point left, namely, as regards the wi holding of assent to a Bill. If we get the same rights in th matter as other Dominions have, and I understand that there a constitutional provision in the case of every Dominion that H Majesty's assent or the Viceroy's assent may be withheld, if it made analogous to that, I do not think there will be much difficult

Lord Reading: I must interrupt you for a minute there, M Jayakar, because I was very anxious to make it clear that I mea more than that. That is why I refer to it; I do not want an misunderstanding about that. There is, of course, the constitution right always. If you have to give assent there is the constitution right to withhold it, but it is very limited, certainly in the Domi nions and so forth. What I wanted you to understand was that intended that the mere right that the Viceroy has to use his discre tion to withhold consent or to reserve consent must continue in th transitory stage. That is why I referred to it.

Mr. Jayakar: Withholding consent to a specific Bill on certain definite, specific grounds. I imagine this is what is meant.

Lord Reading: It may be one of the means of giving effect to the power of control, whatever it is, however limited, that he has. It may be one way of exercising it.

Mr. Jayakar: Quite true. I follow that, but the power must be confined to certain specific cases. For instance, one case was suggested by Your Lordship, namely, that the Viceroy should be made the ultimate repository of the concerns of the minorities, especially small minorities. Well, I can quite understand the Viceroy not giving his assent to a particular Bill because the rights of the minorities are by that Bill unjustly affected. If specific grounds are stated it is quite a different question. However, that is a matter of detail, and I do not wish to pursue it further. We will have to consider it when we come to details.

On the whole, I agree with Sir Tej Bahadur Sapru, subject to what I have said. The only reason why I entered into detail was that I wanted to make my position clear. When we come to these details we shall see what should be reserved and what should not be reserved.

Chairman: I am very much obliged to Mr. Jayakar for putting forward the views entertained not only by himself but by a very large number of people in India. We shall naturally give the

greatest possible attention to everything he has said, and I am very grateful to him for his assistance.

Dewan Bahadur Mudaliyar. If I intervene in this debate it is not because I have anything new or novel to suggest or to add to what Sir Tej Bahadur Sapru has said, but because I want the Committee to appreciate the point of view of the party which I represent in Madras and which has consistently worked the reforms during the last ten years.

I, Sir, represent the non-Brahmin Party in Madras, and our point of view has always been that the constitutional progress of our country should and could only be brought about by constitutional methods. We have always stood against anything that approaches direct methods of action in political matters, and we have believed that in the fulfilment of the pledges that England had made in 1917 our country would gain that status which we all desire it to gain purely through constitutional methods of agitation. To-day I am in the happy position of seeing the light of day breaking through the clouds and of realising that the point of view for [illegible] se years stands a chance of being [illegible] cause, as the years have gone by [illegible] doubts began to arise, some of us who were at the helm of affairs were feeling it extremely difficult to co-ordinate the activities of our party men and to try to impress upon them, and to continue to impress upon them, the great need of not being washed off their feet by the agitations and by the movements that were spreading all over India. We have been able to do that, and if you will make reference to any of the Governors who have presided over the destinies of Madras you will be able to realise that even in these difficult days, when the whole country is thrown into an utter turmoil, Madras has stood aloof, almost an island in herself, and still believes in methods of constitutional agitation.

To me, Sir, therefore, it was a very great encouragement to hear the speech of Lord Reading yesterday. Till yesterday I did not know exactly where I was; and in fact, Delegations on either side of you were like the strophe and antistrophe of a Greek tragedy, alternating between assertions of responsibility at the Centre on the one hand and entering caveats against that position and it was only yesterday that my doubts were resolved, and I want to take this opportunity *of paying my tribute of praise and of thankfulness* to the Liberal Delegation, who have, consistently with their principles, come forward and made the declaration which they have made [illegible] s the Liberal Party [illegible] I venture to think [illegible] evolved for India during the coming months, the Liberal Party will play as great and conspicuous a part as it played in the days of the South African constitution. May I add this. I am not accustomed to pay personal compliments, but India will realise that it is a great thing not merely that the Liberal Party has put forward this point of

most self-governing Colony, I would like to read a very sho passage from Mr. Edward Porritt's book on "The Evolution of th Dominion of Canada," at page 360: "Distribution of Cabinet off ces based on geographical considerations, and on claims of rac religion, and special financial and material interests, is an inno vation on the usages and traditions of Cabinets at Westminste The innovation has been developed by the differing conditions Canada and the United Kingdom; by the operation of the Feder principle; by the need for conciliating assertive interests—raci and religious—which is as old in Canadian politics as the il assorted legislative union of Upper and Lower Canada of 184 1867." If I might quote from the "Tribune" of Winnipeg, note is added to this: "Sir Wilfred Laurier is not the only sinner Practically every party leader in Canada managed Quebec as Si Wilfred has managed that Province. A little more than an equa division of the spoils of office, concessions here and concessions ther to race and creed, and there you have the statesmanship of Canadian Premiers of both Conservative and Liberal stripe."

Chairman: Might I ask you a question at this point? I should like to get your help whilst we are upon the point. Sir Tej Bahadur Sapru quoted Section 11 of the British North America Act. It says that persons who are to be members of the Council shall be from time to time chosen and summoned by the Governor-General, and so on. I quite follow what you say, that the Governor-General would have to consult somebody, but, having regard to what you have said with regard to groups, with which I rather agree with you, which of these two alternatives would strike you as being the better: that the Governor-General should appoint his ministers in consultation with a particular person, or in consultation with the leaders of these various groups in the Legislature?

Diwan Bahadur Mudaliyar: I am unhesitatingly for the Governor-General acting in consultation with the particular leader, and not with a number of leaders of various groups, but at the same time the Governor-General can have the power to see that the Prime Minister in choosing his colleagues gives effect to the intention that as far as possible certain groups have to be represented in the Cabinet. I believe that it will be a workable proposition to get the leader of the largest group to have a consultation with the Viceroy and to see that important minorities are not left out of representation in the Cabinet. If, on the other hand, various group leaders are to be called in, you get a certain number of dislocated units, and it will be very difficult to run the Cabinet with the unitary system working with all the members being jointly responsible to the Legislative body.

Mr. Jinnah: I believe that in the Provinces with regard to the transferred subjects the practice that is followed (I am speaking for Bombay now) is that the Governor sends for a gentleman who has the largest support of the members of the Legislature and asks him whether he could recommend the other Ministers from amongst his colleagues. When the Governor is satisfied, after the names of

he colleagues are suggested, that they together would get the majority support, he nominates them.

Sir Tej Bahadur Sapru. That is not the general practice. It is o in Bombay and in Madras, but it is not the general practice.

Diwan Bahadur Mudaliyar: In Madras it has invariably been he practice. I suggest that that ought to be the practice in the Central Government. With reference to the position of the Viceroy, am in agreement with Sir Tej Bahadur Sapru and with Mr. ayakar that it would be undesirable for the Viceroy to preside rdinarily at Cabinet meetings. I want everything to be done which ill give full status to the future Prime Minister of India. Undoubtedly the presence of the Viceroy at ordinary Cabinet meetings ould detract from the position which the Prime Minister should cupy within the Cabinet itself, not that he will be the dictator in he Cabinet, but if the Viceroy is present there will not be the pportunity for the Prime Minister to have that position in the abinet which he ought to have. The same tendency has been bserved in other colonies. In Canada, for instance, even to this ay, I believe that they have the convention of an empty chair eing present in the Cabinet room, but the Governor-General never oes and sits there. I understand that, at least from the date of he Duke of Argyll, that practice has been given up. I come now the next heading, which is very important, how stability can be cured for the Ministry. I want to say that this is not a point f view which you in the British Delegation have to put forward much as one which we have to put forward. We are much more terested in a stable government than you can possibly be. We ave given to this Ministry the concerns of 300 millions of people very one of us has to live under the operations of this Ministry. e cannot afford that that Ministry should be swayed by the passing moods and fancies of the Legislative Assembly We, therefore, ant every guarantee which there can be in reason, for a stable linistry being established There are only two extremes which e have to avoid. We cannot afford to make this Ministry an utocracy or an oligarchy. We have to avoid the danger of any et of people getting into the Ministry and so continuing in office hat they virtually become an oligarchy. Secondly, we have to void the other extreme of a possible snap vote turning out a linistry, and of people continuously trying the intrigue so that one et of people may go out of office and another come in These are he dangers which we have to face. Therefore, it seems to me, that ny proposal which would secure in reason the stability of the linistry ought to have our acceptance. There are a few limitations that I would suggest at this stage, leaving the details to be onsidered later We have accepted the principle of unitary government. I suggest that we accept the principle that the Ministry should be thrown out by a vote of no confidence of the entire Federal Legislature, and not merely of the British-Indian section alone, whether the subject is a British Indian subject or a Federal subject. We have not yet completely discussed, and I keep an open

most self-governing Colony, I would like to read a very s passage from Mr. Edward Porritt's book on "The Evolution of Dominion of Canada," at page 360: "Distribution of Cabinet ces based on geographical considerations, and on claims of r religion, and special financial and material interests, is an i vation on the usages and traditions of Cabinets at Westmins The innovation has been developed by the differing conditions Canada and the United Kingdom; by the operation of the Fed principle; by the need for conciliating assertive interests—ra and religious—which is as old in Canadian politics as the assorted legislative union of Upper and Lower Canada of 18 1867." If I might quote from the "Tribune" of Winnipeg note is added to this: "Sir Wilfred Laurier is not the only sin Practically every party leader in Canada managed Quebec as Wilfred has managed that Province. A little more than an eq division of the spoils of office, concessions here and concessions th to race and creed, and there you have the statesmanship of Canadi Premiers of both Conservative and Liberal stripe."

Chairman: Might I ask you a question at this point? I shou like to get your help whilst we are upon the point. Sir Tej Bahad Sapru quoted Section 11 of the British North America Act. It sa that persons who are to be members of the Council shall be fro time to time chosen and summoned by the Governor-General, and s on. I quite follow what you say, that the Governor-General woul have to consult somebody, but, having regard to what you hav said with regard to groups, with which I rather agree with you which of these two alternatives would strike you as being the better: that the Governor-General should appoint his ministers in consulta- tion with a particular person, or in consultation with the leaders of these various groups in the Legislature?

Diwan Bahadur Mudaliyar: I am unhesitatingly for the Gover- nor-General acting in consultation with the particular leader, and not with a number of leaders of various groups, but at the same time the Governor-General can have the power to see that the Prime Minister in choosing his colleagues gives effect to the intention that as far as possible certain groups have to be represented in the Cabinet. I believe that it will be a workable proposition to get the leader of the largest group to have a consultation with the Viceroy and to see that important minorities are not left out of representation in the Cabinet. If, on the other hand, various group leaders are to be called in, you get a certain number of dis- located units, and it will be very difficult to run the Cabinet with the unitary system working with all the members being jointly responsible to the Legislative body.

Mr. Jinnah: I believe that in the Provinces with regard to th transferred subjects the practice that is followed (I am speaking for Bombay now) is that the Governor sends for a gentleman wh has the largest support of the members of the Legislature and asks him whether he could recommend the other Ministers from amongst his colleagues. When the Governor is satisfied, after the names of

e colleagues are suggested, that they together would get the ajority support, he nominates them.

Sir Tej Bahadur Sapru: That is not the general practice. It is in Bombay and in Madras, but it is not the general practice.

Diwan Bahadur Mudaliyar: In Madras it has invariably been e practice. I suggest that that ought to be the practice in the entral Government. With reference to the position of the Viceroy, am in agreement with Sir Tej Bahadur Sapru and with Mr. avakar that it would be undesirable for the Viceroy to preside rdinarily at Cabinet meetings. I want everything to be done which ill give full status to the future Prime Minister of India Undoubtedly the presence of the Viceroy at ordinary Cabinet meetings ould detract from the position which the Prime Minister should cupy within the Cabinet itself, not that he will be the dictator in e Cabinet, but if the Viceroy is present there will not be the pportunity for the Prime Minister to have that position in the abinet which he ought to have The same tendency has been bserved in other colonies In Canada, for instance, even to this ay, I believe that they have the convention of an empty chair eing present in the Cabinet room, but the Governor-General never oes and sits there. I understand that, at least from the date of e Duke of Argyll, that practice has been given up. I come now the next heading, which is very important, how stability can be cured for the Ministry. I want to say that this is not a point view which you in the British Delegation have to put forward

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mind on the subject, whether the representatives of the Ind States should join in the discussion on all subjects, including Bri Indian subjects. That I personally am prepared to consider a later stage. So far as the vote of no confidence is concerned, I willing to concede that, it being a single government and not governments, one for British India and one for the Indian Fede tion, the government can be turned out only by a vote of no c fidence of the Federal Legislature. That immediately involves question of proportions which must be necessary for a vote of confidence. I go further, and I say that it is desirable that the v of no confidence should be passed at a joint session of the t Houses. It may be that before a vote of no confidence is taken for discussion, the Czecho-Slovakian procedure, which has be commended by Sir Tej Bahadur Sapru, may also be adopted of certain minimum number of members signing the requisition.

Chairman: It is one hundred there.

Diwan Bahadur Mudaliyar: In Czecho-Slovakia it is one hun dred out of a total strength of three hundred.

Chairman: That is right.

Diwan Bahadur Mudaliyar: It is a practice which is now in operation after the Muddiman Committee Report, that before a no confidence motion is tabled for discussion a certain number of people should stand up (I believe that it is 30 per cent. in my Legislative Council) and support that motion being taken up for discussion. Having come to that stage I ask myself what the vote of the two Houses should be which should constitute an effectual vote of no confidence. We have not yet decided the proportions between British India and the Indian States. I am taking the vote of no confidence which is to be moved in the two Houses jointly. If the Lower House has out of 300 members, say 200 for British India, and the Upper House has out of 150 members, say 90 members, then it is obvious that a vote of no confidence which is passed by the entire 290 and yet not accepted by the other 160 may not have effect.

Sir Akbar Hydari: Will you kindly repeat the last sentence?

Diwan Bahadur Mudaliyar: I do not commit anybody to these numbers. If, out of 300 there are 200 British Indians in the Lower House, and if, out of 150, there are 90 in the Upper House, then there are 290 British Indian members out of 450. If you suggest that a two-thirds majority should turn out the Ministry, it means that you require 300 members out of 450, a position which involves the possibility of the entire section of British Indian members in both Houses not having confidence in the Ministry and yet not being able to turn them out.

I am only suggesting that when you consider these percentages, this proportion of British Indian members and the other section of the members will also have to be considered. As regards Federal subjects, if a Cabinet loses confidence in regard to Federal subjects.

no question of this proportion will arise, because everybody is equally interested in a Federal subject; but if a Cabinet is to be turned out because it does not have the confidence of the House on a British Indian subject, then it is also fair that a certain proportion of British Indian representatives at least should have confidence in the Ministry. These are, as I said, considerations which will have to be more carefully weighed when we actually come to the details of it.

Chairman: Just on that, perhaps you would be kind enough to tell me your views on the question of the power or the rights of the Federal Legislature to deal with any particular act of a Provincial Legislature. Do not let me embarrass you, if it throws you out of the line of your argument. On this point it seemed to me it would be rather helpful if you could tell me

Diwan Bahadur Mudaliyar: I am not sure, my Lord, whether the Federal Legislature as such would have that power, or whether the British Indian Legislature should have the power We have not yet decided whether the entire Federal Legislature will deal with all questions; but I do contemplate the possibility of the Central Legislature, to use that ambiguous phrase, doing it, whether it is the Federal Legislature as a whole or whether it is that part of it which will represent British India alone, which will have special powers of intervention in the case of a breakdown in the Province.

That brings me to the question of residuary powers, as they are called. My own view is that that phrase need not come into discussion at all If we clearly demarcate the boundaries of the Province, of the Federation and of British India, then all that need be done is to invest certain specific extraordinary powers of intervention in the Federal or Central Legislature, to be used in cases of certain breakdowns, or certain things going wrong in the Provinces. That is my conception of residuary power

Now, my Lord, with reference to the question of the official Minister resigning and going out, or not resigning, I confess I am very largely in agreement with Sir Tej Bahadur Sapru and the Marquess of Reading, that it will be advisable that the official Minister should resign with other Ministers, though it is possible that he may be re-appointed by the Viceroy I do not want to elaborate the point. The advantages have been dealt with by Mr Jayakar. The anomalies are so obvious that they can easily be ridiculed, but I think on the whole we stand to gain by having that convention established from the start There will be the possibility of both sections trying to influence each other, trying to understand each other, and trying to educate each other

Perhaps I may give my experience in Madras Sir C P Ramaswami Aiyar knows it much better, because he was inside it During the first four or five years we had the absolute cabinet system prevailing, Ministers and Executive Council members being called in and consulted on all subjects, both transferred and re-

served. I understand—though I am not quite sure, not havi been in the inner working of it—that it was because of certa decisions taken here that the Governor was asked to discontin that practice, because it was put that the responsibility of the r served half was blurred by these joint deliberations and joi consultations. It was not a very happy decision, if I may l pardoned for saying so, which the Home Government, if I a rightly informed, took on this matter, and ever since Madras h not been quite so happy as it was in the days of Lord Willingdo when the normal practice was to have the joint cabinet system c all subjects, reserved and transferred.

I, therefore, with that experience, feel that we stand to gai a great deal by having this normal practice of joint consultation c all subjects established, and, as a corollary to it, the technica resignation of all Ministers, including the official Ministers.

Then, my Lord, we come to the safeguards which should prevai if certain subjects are transferred. I do not want to repeat wha has been said as regards Defence and as regards Foreign Rela tions. The question of the army has been very elaborately dealt with, and the details to which my friend Mr. Jayakar has referred will, I take it, be examined by the special committee which will shortly meet to consider the question. I agree that Defence should be a reserved subject; I agree that the expenditure on Defence should be contracted out of the vote of the Legislative Assembly for the transitional period. I further venture to think a suggestion will be made at the Defence Committee that it should be capable of periodic examination by an expert body, by an independent tribu nal, if you will, and the award of that body will be treated, just as the initial expenditure which will be made at the start of the Federal Constitution will be treated, as a matter which is beyond the purview of the vote of the Federal Assembly.

Now with reference to Law and Order, the Marquess of Reading himself pointed out that with the transfer of Law and Order in the Provinces to the control of the responsible Ministers, much of the problems relating to Law and Order will automatically disappear. May I point this out, my Lord, that at the present moment, to my mind, many of the difficulties with reference to Law and Order have arisen exactly because it has continued to be a Central subject under the direct control of the Central Authority, in spite of the fact that it is nominally put as a Provincial subject. The oppor tunities of all-India agitation on matters like that are greater when the subject is dealt with by a Central Authority than when it is dealt with by a Provincial Authority.

Chairman: Now would you allow me to ask you how far you agree with this statement? I do not ask you to express any opinion on it; I want you to consider it only. I am not saying it is at all a concluded opinion. I simply want to put it to you in order that you may just turn it over in your mind. In spite of the wide devolu tion of administrative responsibility to the Provinces now contem-

...lated, there must still remain a considerable field for administrative ...

...neral peace, if local Governments were left to take different views ...garding the necessity or, indeed, the proper occasion for prosecut...g individual members of a general conspiracy? Laxity by one ... under any particular ... ace of its neighbour. ... Provinces, namely, ... a direct share in the ... iting to part of the ...st of the military police. I am not asking you to express your ...inion on that; all I am indicating to you is the views which some ...ople, either rightly or wrongly, hold with regard to it; but you ...llow, I am sure, the sort of thing I am putting to you.

Diwan Bahadur Mudaliyar: Certainly, my Lord

Chairman: Excuse me for interrupting you, but I wanted to ...it it to you in order that you might, at some time, consider it.

Diwan Bahadur Mudaliyar. With regard to this there are two ...ssible views which can be taken. Give the full control to your ...rovincial Government to deal with these matters, and it is possible ...at it may more effectively deal with them than if it were con...nually obsessed with the idea that there might be interference by ...e Central Government.

Chairman: Say that again, if you do not mind.

Diwan Bahadur Mudaliyar: Give the full control to your Pro...incial Government to deal with these matters, it is possible a Pro...incial Government may be more sharp in dealing with them and ...ay more effectively deal with them, than if it were continually ...bsessed by the fact that its actions may or may not be approved ...y the Central Government, on the ground that its action has a ...ery wide bearing on the whole Indian question. Let me take a ...ery concrete case. I am not saying it because politically I differ ...rom the Congress Party, but take the case of dealing with certain ...ongress individuals by a Province. Bombay has had to deal with ...hem During the last twelve months, I believe I am correct in ...aying that the share between Bombay's dealing with it and the ...entral Government's dealing with it is indistinguishable; at any ...ate, to the public mind, it is the Government of India and the ...ome Member of the Government of India who is continually deal...ng with every question that arises in the Bombay Presidency. I ... to the good of India. It has ... has increased a tendency to... merely because it is the Cen...tral Government that deals with it and not the Bombay Provincial

Government. If it were definitely known that it was the Bo
Provincial Government alone that was dealing with these quest
I venture to think that other Provinces would not take the
interest, or be engulfed in the same sort of agitation as it is
there is the feeling that the Government of India, the Central
ernment, is dealing with it. And I venture to think that norm
unless of course the peace and tranquillity of the whole of Ind
in danger, or inter-provincial peace is in danger, and it gets to
proportions that the Central Government feels that the Provi
Government can no longer cope with the situation—normall
believe it will be to the advantage of all-India politics if in t
matters Provincial Governments were given full control.

Chairman: Excuse my just asking you a question. You
it in this way; you said "normally," and then you said "
the Central Government feel that they ought to interfere", or
used some words like that. Who is to be the judge of the occas
being so serious as to entitle the Central Government to interfe

Diwan Bahadur Mudaliyar: Obviously the Central Governme

Chairman: Then I think you would possibly admit that th
may be cases—they may be so extreme that we need not troub
with them—in regard to which these sort of powers should be vest
in the Central Government?

Diwan Bahadur Mudaliyar: I agree.

Chairman: Thank you.

Diwan Bahadur Mudaliyar: Then, my Lord, as regards finance
I would repeat the remark I made with regard to the stability
the ministry, that India's credit is much more our concern, becau
to have India on a solid basis in the world market must be one
the ambitions of any statesman who handles India's finances.
am therefore willing to agree to any safeguards which might be
necessary from the point of view of financial experts for ensuring
that credit for India. I do not want to go into the details of the
question, because I am not an expert in financial matters. I d
not think there will be any difficulty as my friend, Mr. Jayakar
has said, in passing a bill like the Reserve Bank Bill, when once it
is understood that that is merely the precursor to giving definite
responsibility for finance to the Indian ministry. If I may say so
in very short language, we cannot judge of the future by the past.
Appeals have been made to the effect that the angle of vision must
be changed, because federation has come into existence or is going
to come into existence. I would only repeat the same appeal and
venture to think that in the future constitution that we are imagin-
ing, there may not be the same quality, the same nature or the
same extent of difficulties as we have experienced in the past.

There is only one final word I should like to say. There is a
certain amount of intellectual disarmament, if I may use this
phrase, which both British Indian delegates and delegates of the
British Empire have to adopt in approaching these questions. We

have to give up many of those notions which you, or we on this side of the House, in days of comparative irresponsibility, have developed, and I venture to think that at this Round Table Conference, so much of statesmanship is present, and has made itself heard from the British Indian side, that there will not be the same fear that irresponsibility will develop in the future May I also appeal to Sir Samuel Hoare. I hope he will read these observations

Chairman: Yes, he shall have a shorthand note.

Diwan Bahadur Mudaliyar We have always heard it said that British parties should present a united front on the Indian question, and that there should be no difference of opinion between British parties in dealing with India. I, personally, have not been very happy over that proposition, but if that proposition should continue, may I not suggest that British parties should continue that unity of front, not by receding to the position of that party which is least anxious to advance, but by coming into line with all those parties which are ready to make concessions which will make for the future happiness of my country And may I also add, to my own countrymen, that we have passed through the Valley of Humiliation for many decades I would therefore appeal to my friends of the British Indian Delegation, that in the future constitution that we are going to have, and in the working of that constitution, in our relations to majorities and minorities, in our relations to classes which have been treated as oppressed or depressed classes, we should remember the words of our great poet "Though the mills of God grind slowly, they grind exceeding small though with patience He be waiting, with exactness grinds He all"

H.H. The Maharaja of Bikaner I thought it would help to save time, and to save trouble to speakers from British India who may follow, if I intervened at this stage, though I shall ask to be permitted to speak at length later, just to say one word so far as His Highness of Bhopal and I are concerned as regards the vote of censure

Keeping in view the list of Federal subjects as drawn up at present, and subject to a fair, just, and equitable settlement of the question of the number of States' representatives in the Federal Houses, we think that the Indian States will be perfectly content, as regards the percentage of the majority in throwing out the Federal Government, to leave this point to be settled by British India with the Crown We do not want to ... any domination in this or in any other matter Whilst the ...s must ask that the throwing out of a Federal Government ... matter in which they should have their reasonable and fair ... in the Federal Legislature, we not only do not want any ...ation but we do not desire to come into any unnecessary ...ct with our friends in British India

...r. *Sastri*. Whether the subject concerned be a Federal subject ... British Indian subject?

H.H. The Maharaja of Bikaner: Well, that is a point that I will develop later, because if the States are in the Federal House it may be an anomaly, but I am afraid there is no other way except, if we throw out the Government, that the States who are sharing in the Federal Government, and whose Government it will be just as much as that of British India—I fear there is no alternative but that we must have a voice in the throwing out of the Federal Government. I am not going into the list of all British India subjects. That is a matter we can deal with later.

(The Sub-Committee adjourned at 1-5 p.m.)

PROCEEDINGS OF THE SIXTEENTH MEETING OF SUB-COMMITTEE No. I (FEDERAL STRUCTURE), HELD ON 7TH JANUARY, 1931, AT 10-30 A.M. AND 2-45 P.M.

Sir C. P. Ramaswami Aiyar: I shall make an attempt not to repeat what has already been said, and very well said, by a number of previous speakers, but there is one point on which I desire to dwell at some length, and I believe I am justified in so doing because I have had the singular experience of having been in charge of law and order for five years in a Presidency where the Cabinet system was in full operation and where in practice no differentiation was made between the reserved and transferred halves of the Government.

The reason why I am making that point at some length is because I contend that if the Legislature and the leaders and representatives of the Legislature are taken into full confidence in matters of law and order, the Indian Legislatures have always shown their readiness to support the maintenance of law and order. Let me describe what took place in Madras. That very wise statesman, Lord Willingdon, was in charge of the Madras Presidency at the time of my predecessor and myself. We were both Indian non-officials; I had been elected to the Legislative Council first from Madras University and then for Madras City as a non-official, and I was called on first to be Advocate-General of my Presidency—an office corresponding to that of Attorney-General here—and then I was put in charge of law and order.

That period coincided with the aftermath of the great Moplah rebellion, which produced a great convulsion in that Presidency. Lord Willingdon made a point of not differentiating between the reserved and transferred halves. Every item of policy relating to law and order was discussed by the Ministers and the Executive Council members sitting together. Every item of the transferred subjects had the experience of the Executive Council brought to bear on it and all the reasons necessary for enforcing law and order in a particular way were fully imparted to the Ministers, the accredited leaders of the majority party in the House.

What was the result? There was a very difficult time when the collection of revenue became impossible in certain parts of

the Madras Presidency, and the irresponsible Executive had to go to the Legislature and ask for the enactment of a legal provision by which summary and *primâ facie* arbitrary powers had to be taken by the executive for the enforcement of the revenue collection. The Ministers were sitting with us when we discussed the whole matter. The Governor and the members of the Executive Council pointed out to the Ministers the difficulty of the revenue collection and stated that it was necessary to assume arbitrary powers in the special circumstances that had arisen and that the Legislature had to sanction it, as otherwise the good name of Madras would suffer and the happiness and well-being of the people would be at stake. You may take it from me, Lord Chancellor, that with most loyal comradeship the Ministers agreed to support us, and we passed an Act which was of an expropriatory character, and in certain respects of a confiscatory character, practically unanimously through the Madras Legislature.

There was another very remarkable instance. As an aftermath of the Moplah rebellion, where communal feelings ran riot, certain steps had to be taken. The Hindu members of the Executive Council administered the law as between the Hindus and the Muhammadans, the Muhammadans being the sufferers, but we found we were able to satisfy the Muhammadan members of the Legislative Council that we were doing justice, and we were able to satisfy them because they were in touch with what was happening on account of this system of joint consultation and joint advice

Moreover, as a part of the aftermath of that same Moplah rebellion, a number of people had to be detained without trial. Even to-day that number is very nearly a thousand In other Legislatures there have been votes of censure and votes deprecating the action of the Government in detaining persons without trial, but the case of each one of these people who were reckoned to be dangerous to public safety was discussed in a joint meeting of the Ministers, the accredited leaders of the majority party in the House, and the members of the Executive Council. The Muhammadan leaders were naturally very solicitous about the interests of the detained persons, who were mainly Muhammadans, and had to be convinced that what we were doing was right. They were convinced, and on a vote of confidence—an Indian was in charge of the subject—the Indian member of the irresponsible executive got a majority of 4 to 1 in a House of 120.

I am not instancing these things merely for the purpose of emphasising that Madras is a very wonderful province and that we do great things there, but because in Madras on account of the vision and courage of a man who knew his business, and who translated the ideals and ideas of the Montagu Reforms into reality, there was no difference between the reserved and transferred halves, the Ministers were taken into full confidence and the Legislature played up.

We need not, therefore, start with the idea that the Indian Legislatures will be loath to take the steps necessary to maintain law and order. Confidence will always beget confidence. Human nature is not very different in Madras from what it is in Bombay, in the United Provinces or in the Punjab. The differences in this particular are due to the differences in constitutional outlook and the differing practice of the people who have been in charge of several provinces. That is my first point.

If I am right so far, my next corollary is that the maintenance of the ordinance provisions would be both superfluous and embarrassing if this point of view were borne in mind. It is only to the extent to which the Executive is forced to treat the Legislature with a certain lack of confidence that the Legislature is not responsible. By all means arm the Viceroy with emergency powers in cases of breakdown and crisis, but do not arm him with any powers of conducting ordinary government by means of ordinances; in other words, let it not be taken that the Viceroy can run an administration by virtue of ordinances. The moment you do that you make the Legislature suspicious and resentful. But if the Legislature has cast upon it the responsibility of running these primary functions of maintaining law and order, I submit the Legislature will play the game. That is why I consider the ordinance power as a part of ordinary administration ought to cease to exist.

Chairman: How would you define an emergency?

Sir C. P. Ramaswami Aiyar: In the case of breakdowns, where ordinary administration has failed to bring about the results expected of it, and where breakdown takes place affecting the peace of India as a whole or of a considerable part of India, by all means let the Viceroy step in.

If I may use such an expression, the Viceroy must be no more than the god in the machine. He must not govern by means of ordinances, but he may step in with ordinances in the case of a breakdown or emergency.

For a similar reason I would urge that it is unnecessary for the Viceroy to preside over his Cabinet in ordinary circumstances, and that it would be embarrassing if he should do so. Give the Prime Minister the responsibility and make him realise that he has to run the government of the country, and then things will go more easily than if the Viceroy is there as an effective and day to day factor of Government. I do not wish to say the Viceroy should not have the right to be present and to be fully informed of what takes place, but if he normally presides over these meetings it may make the sense of responsibility less real and less vivid.

I now pass from this subject of law and order to another matter, namely, the extent of responsibility at the Centre. I am using an expression, I know, to which exception has been taken. Let me make this point perfectly clear. It must be taken

that we on this side of the table have come here mainly with the object of working for this responsibility at the Centre Our success will be measured by the extent of the responsibility that is granted, and our failure will be judged by the extent to which responsibility is not granted.

It has been said by Sir Samuel Hoare that there is no guarantee that the men who are speaking here and making these demands will be the men who will run the future Government. But let us picture the dilemma into which anyone who adduces that argument is led. Either we are going to make good or we are not The alternatives are martial law and the policy of the Congress. The only hope that the Congress, or at all events a certain portion of the Congress, may come round and work on constitutional lines for constitutional progress is the transference of real power and responsibility at the Centre This will only happen if the advocates of constitutional work are strengthened and their hold over the people not utterly destroyed If there is no transfer of real responsibility at the Centre, what would be the result? We would be discredited; we who have come here would be powerless in every way. That does not mean that the problem would be solved automatically, the difficulty would in fact remain and be enhanced That is a point which has got to be borne in mind, and therefore the argument that there is no acceptance and no good will does not go very far. What we say and what we unhesitatingly affirm is that acceptance and good will should be the fruit and the outcome of this Conference, and that they should not be difficult to produce if the elements of the position are appreciated. We hope that the good will that is produced here will have repercussions in India, so that you can deflect the energies which are now being wasted in other directions

Having said that, let me deal with what was envisaged as our immediate and sole objectives: Provincial autonomy and Federation. It is said that these are two great contributions which are likely to be made to the political Treasury. Provincial autonomy in a fairly complete form is going to be attained The idea of federation has blossomed. Are these not sufficient achievements, we are asked, and can you not go home happy? My answer is twofold. Provincial autonomy, in the events that have happened, is inevitable, and was known to be inevitable before any one of us started from India, and as things have gone, dyarchy has proved, especially certain manifestations of dyarchy, such an impossible affair that you must either go on to provincial autonomy or go back to the Minto-Morley schemes. Therefore, provincial autonomy by itself does not take us very far, and cannot satisfy the people if it stood by itself Further, such autonomy would be unreal if the Centre is irresponsible. As to the idea of federation, what is this idea, separated from the idea of responsibility at the Centre? Their Highnesses have made it perfectly clear that they are not going to welcome federation with the present Government of India as it is constituted to-day What is federation? It is the accepting of federation of a self-

governing British India with self-governing units—namely, the States of Their Highnesses the Princes. That is the federation. There is no federation apart from a self-governing unit federating with other self-governing units. The federation that is contemplated is a number of self-governing units coming together, and therefore the idea of federation cannot be pursued unless you are prepared to start with self-government so far as British India is concerned. Speaking for myself, I do not wish to use exaggerated language, federation by itself is not a thing which will appeal to me provided that federation does not bring in its train side by side with an association with our respected colleagues Their Highnesses the Princes, the governance of our own affairs. If federation merely means that people who are imperfectly responsible have a joint discussion with the Princes on matters without any final sense of responsibility, I am not enamoured of that federation, and I wonder if the Princes would be. Therefore, a policy of federation may be put on one side unless you are prepared to start with responsibility at the Centre.

Now, I turn to another aspect of the present position. It is not often remembered that the political agitation of to-day is not the political agitation of yesterday or the day before. Political agitation only two or three years ago and ten years ago certainly was conducted by professional men, the "intelligentsia" as they were called, within inverted commas, but the political agitation of to-day is not led by the "intelligentsia," is not led by the professional class, it is led mainly by the commercial men, it is led by the moneyed classes, it is led by the agriculturalists, it is led by a self-reliant and indignant commercial community. That is a factor which is not always borne in mind in this country. The strength of the extreme political agitation in India arises from the fact that the moneyed classes, the commercial classes, and the trading classes are behind that movement, providing it with the sinews of war, providing it with their moral authority. And why is that? It is because the commercial, the fiscal, and financial policy of Great Britain, is held by those classes to have been detrimental to their interests. Very probably if they had experience and responsibility they will come to realise that certain aspects of what they are now fighting against are really beneficial. As in other matters, it is only experience that teaches wisdom and moderation, and you cannot—I make bold to make that observation, though it may seem to be a sweeping observation—you cannot still that agitation, you cannot bring contentment to India unless the financial and fiscal policy of India is conducted by Indians in the exclusive interests of India, with only minimum safeguards for the protection of the interests which deserve protection. A point which I would emphasise very strongly is that when we speak of responsibility at the Centre what we are really aiming to get is financial responsibility and the responsibility for fiscal and economic policy. That is a matter on which I consider that there will be very little difference of opinion between any Indians in India, whether they belong to

great Order of Princes, or whether they belong to the order commoners. I do not think there is any real difference of inion in India that the fiscal and financial policy of India has be regulated by Indians in the interests of India and of India one.

That having been said, let me go further. It is true that ngland has had a great commercial history, and has incidentally nefited India. Who can forget—I was member in charge of rigation in my Province—who can forget what England has one in the way of railways, canals, irrigation, and so forth? ut let me remind the delegations here that England has not ucceeded in making India regain its old position in industry nd trade. Recently, England has been unsuccessful either in enefiting India or in benefiting England itself I am not using he language of exaggeration when I say that it is difficult to uy English cutlery in India, and there is no Indian cutlery; I an only buy German cutlery. I cannot buy, at the same rate r at anything like the same rate, Indian goods or English goods h Madras as I can buy Japanese goods. The financial and the iscal policy of England has not been very successful in the immeiate past either in the interests of Inida or in keeping alive he interests of England No wonder that a number of Indians ay, "If we tried our hands at this we might be able to benefit urselves, and, probably, we may be able to benefit the Empire, n any case we cannot do worse than the present rulers

Now let me refer to discrimination I am not one who would avour anything in the way of expropriation, but let us be clear is to our ultimate ideas I had to make the same point in the League of Nations Assembly dealing with the World Economic Conference at Geneva three years ago People who have pursued protectionist policy suddenly turned round and said, "Why does India start protection to-day? Why does she not appreciate the benefits of free trade?" It is simply because the history and the injustice of the past has to be undone and India's trade and commerce have to be rehabilitated so that India may come to her own. While it is true that the India of the future, the self-governing India of the future, will take care to see, and may well be laid down for seeing to no interest, is unfairly jeopardised or its property expropriated, nevertheless Indian trade and Indian commerce has to expand, and protection may be necessary, and encouragement in practical forms is essential. Why, you have started protection here. Prevention of dumping may be necessary. You have started it here. It may be necessary for us to take steps which may not at first sight seem to satisfy certain of the accepted financial canons of some financial purists, but we ask that we may make our experiments in our own way and learn by our experience.

Then with regard to finance, I hold that problem also to be crucial. I would appeal very strongly to my colleagues and say

that there is no sterner lesson that is taught to a Finance Minist than the immediate results of making a muddle of the financ Not only is there a watchful opposition as has been pointed o but we know that in private life when the purse gets lean and leaner wisdom and prudence come in the train of the decrea in the contents of the purse. The Finance Minister of Ind may well be trusted to manage his internal loans and his extern loans so that he should not go near the verge of bankrupt After all, as has been pointed out, other countries have been ve near repudiation and have recovered, jumped back in time. do not wish to do more than slightly refer to the controver which is now taking place between England and France as to wh has happened to the franc. I do not want to say anything abo what has happened in Australia. I do not want to say anythi about what happened in the United States of America about years ago but very sharp lessons come to Finance Ministers w forget their duties. During the transition period in India y can make it perfectly clear that if India is not raising loans India but in England the conditions which England is entitl to impose for the purpose of seeing that the security is satisfacto should be imposed, but one further thing I may say: India wil I trust, in the future rely largely upon internal loans, and feel very strongly that unless you have an Indian Financ Minister working on Indian lines you will not release the larg hoards which are available in India, but I hold that it can b done if a national policy is followed and the willing concurren of the people of India secured to the policy of the Minister.

There is one other matter on which I desire to make my point of view perfectly clear. In such matters as past debts pensions, Services, the interest and the sinking fund, it must be made clear that there should be a consolidated charge which it is the paramount duty of India to maintain, and nobody will dispute that proposition, but what I am saying is that as to future loans and about the general financial policy, if the Finance Minister is always in the position of being subjected to a mentor or to dictation there will be no resilience in Indan finance and no sense of real responsibility in the Indian Legislature. I feel very strongly indeed that an Indian Legislature faced with a tremendous nation-building duty in the future cannot but look at the financial necessities of the situation with a sense of reality and the proprieties.

My submission, therefore, is that any imposition of financial handicaps and any crippling of financial power will be good neither for England nor for India. It will be beneficial to India to realise her responsibilities. She may make mistakes, but there is no lesson so sharp, so drastic, so immediate as the lesson of financial misbehaviour and the repercussions of that misbehaviour upon the country and on the Government itself and its programme and policy. I feel sure that India will rise equal to the occasion, provided she is trusted; and I may go further and say

unless and until the power to regulate its currency and exchange, the power to regulate the financial policy of India, is given to India, India will not—and ought not to be satisfied. The one thing on which Indian public men feel most strongly is that no Indian member responsible to an Indian Legislature can do very much worse than those responsible for the policy that has been pursued within the last 10 or 15 years. In saying so, let me not be understood to criticise in any way the very eminent men who have been in charge of finance, especially recently, such as Sir Basil Blackett or Sir George Schuster, men of great experience and financial acumen; but they have laboured under the difficulty of not being in touch with the popular will; they have laboured under the difficulty of not being in a position to translate the popular will into action and to see to it that the popular Legislature is educated on the right financial lines. The difficulty has been, as Sir Tej Bahadur Sapru and Mr Jayakar have pointed out, that their policy has been viewed with suspicion and there has been the sense of irresponsibility in the Legislature which is the main cause for the financial difficulties of India.

Now, summarising what I have said; India demands and feels that she can be trusted with responsibility in respect of every subject, excepting defence and foreign relations, and also with regard to defence and foreign relations after a short transitional period The Viceroy must have reserve powers and emergency powers, not only in such matters as I have already indicated, but generally in cases of breakdown

Chairman: What exactly do you mean by a breakdown?

Sir C. P. Ramaswami Aiyar Supposing a Provincial administration or the Central administration has made such a mistake in the maintenance of law and order that it has become necessary, for instance, to call out troops in large numbers, that there is an outbreak or a rebellion, either already started or imminent, or the Viceroy feels that a policy is likely to lead to very serious national repercussions, then, on his own responsibility, and with definite instructions that it is only if the safety and tranquillity of the whole of India or her Provinces is likely to be imminently affected he can interfere, but not otherwise, and even this must come up at the earliest possible moment before the Legislature in a formal manner.

Chairman: Now, will you forgive me for asking this. You have dealt with the question of a breakdown in law and order; what do you say with regard to a breakdown in finance? Excuse my asking you, because it is just as well we should understand.

Sir C. P Ramaswami Aiyar · Certainly. Now, my Lord Chancellor, let me illustrate the point Let us say that the revenues of India come to 130 or 140 crores. Fifty or 55 crores out of that are earmarked for the Army There are the consolidated charges, pensions and the various other commitments. Sir B. N. Mitra will give the figures more accurately than I can.

They will amount to about 20 or 25 crores. That is 75 crores. Then you will find there are many other things, like salaries and other things, and you will find that practically two-thirds of the total revenues of India are committed in some way or other.

Chairman: Yes.

Sir C. P. Ramaswami Aiyar: What you have, therefore, for the Finance Minister to deal with in the way of the development of India and the following out policies laid down by him is about 40 crores.

Mr. Jinnah: No. I wish he had 40 crores.

Sir C. P. Ramaswami Aiyer: At the most, then.

Lord Reading: No, it would not be 40 crores.

Mr. Jinnah: The rest goes for the services of India.

Sir C. P. Ramaswami Aiyar: Let us assume that the result is that not more than one-third of the whole of the revenues of India are what the Finance Minister, at the very worst and in his most unskilful moments is able to play with. Now the financial breakdown that is contemplated can only arise with reference to about 50 per cent. of that, and even these financial breakdowns will have such repercussions that the Finance Minister, if he indulges in hazardous policies, will be taught severe lessons. That is what I mean.

Chairman: Then you contemplate a breakdown for the purpose of teaching the Financial Minister not to do it in future?

Sir C. P. Ramaswami Aiyar: After all, that happens in other countries; crises have happened, or at any rate it has been apprehended that they might happen, in England, when, for instance, the Old Age Pensions scheme was started, and we heard what was said to be the likely result thereof. When unemployment insurance was started we heard many croakings. We have heard of socialistic legislation and prophecies of the imminent bankruptcy of England. The same thing was said with regard to other countries. What I say is that there are obvious limits of activity in the initial career of an Indian Finance Minister; he cannot jeopardise or ruin the whole of the Indian finances; he can only spoil a small part of them if he is going wrong, and this can happen only if his colleagues do not correct him, if the Legislature is so unwise as not to teach him properly, if every one of the elements is foolish and unseeing; that is, if the Minister is imprudent and rash, if the opposition is also blind, if his colleagues of the Services, the colleagues who are going to have joint consultations with him, are impotent, if the instructions and the advice of the Viceroy are going to be unheeded. What can the Viceroy do if all these elements fail? Does the Viceroy propose by virtue of an ordinance to raise new revenues and run the government of the country? What I mean to say is that in financial matters, especially, the results are so easily perceptible that the vesting of responsibility is not as hazardous an operation as it [illegible]lly thought to be.

My submission, therefore, is that, provided you satisfy the elementary financial canons of paying for services which have to be paid for, making provision for the debts and the services of loans, making provision for the services which are going to be reserved and making provisions for our obligations, the financial control of the Indian Legislature ought to be recognised, and the financial control ought to be vested in a Minister acting in conjunction with the Legislature and as one of the leaders of the Legislature And I say that there is really less risk in that process than in keeping finance practically away from the people and making the Legislature an irresponsible critic of the financial administration, so that it will never rise equal to the occasion.

Chairman · Are you addressing your remarks to the transitional period, or to the period after the transition has passed?

Sir C. P Ramaswami Aiyar I am only referring to the transitional period, because, after what we call the period of transition, India, I take it, will be a completely self-governing Dominion, dealing with defence, foreign affairs and finance as in other countries. I would therefore submit these remarks only with regard to the transition period, with regard to which these safeguards will be imposed as being considered necessary.

Mr. Gavin Jones In the matter of law and order, would you ... it a breakdown if a revolutionary organisation arose which ...ed the law?

Sir C P Ramaswami Aiyar If that is so, it is a breakdown ...ly.

Mr. Gavin Jones I quite agree.

Sir C P Ramaswami Aiyar Then do you call for intervention on the basis of abolishing the present Executive Council, ...e view that with a breakdown in Indian affairs you must ...somebody sent out from England to govern India?

Mr. Gavin Jones No my point is—

Sir C P Ramaswami Aiyar The breakdown has taken place in India to-day according to you

Mr Gavin Jones Yes, according to me, and when there is a breakdown according to me, the ordinances must come into play.

Sir C P Ramaswami Aiyar The coming into play of the ordinances will lead to further breakdown

Mr Gavin Jones That is another point

Sir C P Ramaswami Aiyar The ordinances have come into play to-day and what is happening is that there is further breakdown What I say is the ordinances need not come into play if the man in charge of law and order can go to the Legislature and say · "This is the necessity of the hour; arm me with adequate powers" The Legislature will then do so, and the revolutionary organisations will lose their force and their potency by virtue of that process.

not say anything first except to offer my very sincere and heartiest congratulation to Sir Tej Bahadur Sapru for the great patriotism and the broad outlook which he has displayed, and for the clearness of exposition of India's case before this Conference.

Next to that, but perhaps more important, is my gratitude to the Marquess of Reading for his statesmanship, which means magnanimity, generosity and courage which was obvious in the most illuminating speech that he delivered before this Committee. The effect of that speech, as we all anticipated, has been almost electric, and the recent cables received from India this morning show that it has created an extraordinary impression in all the Provinces, and mostly in Bombay.

So far as my observations are concerned, I may at the outset say that I entirely agree, word for word, with all that has been said by my friend Sir Tej Bahadur Sapru and explained by the Marquess of Reading. I must also add one word of thanks to the Conservative leaders also—I am sorry they are not here—for the extreme courtesy and patience with which they have listened to the appeals that we have made and for the serious efforts that they have been making to solve the problem. Sir Samuel Hoare's speech has not been a disappointment to me, for the simple reason that he has not given a definite opinion upon any point, and therefore I still hope that in the fullness of time the Conservative Party will also fall in with the views expressed by the Marquess of Reading.

My Lord Chancellor, we have all expressed our unanimous view that we want responsibility at the Centre, more or less; but it must be borne in mind that all of us are anxious that this should not be achieved at the cost of the breakdown of the constitution, which means that stability is the greatest factor to be considered. Speaking for myself, when I ask the British Delegates to take their courage in their hands and to give us the constitution that we want I must be prepared to accept all the safeguards which have been mentioned by the Marquess of Reading. A breakdown of the machinery at the Centre would mean disaster to India, and I am not prepared to have any constitution which will result in that simply to have the honour and pleasure of having responsibility at the Centre. We therefore want an arrangement which will ensure the stability of the constitution.

I will now go straight to the points which we are considering, and I will take first the question of the position of the Secretary of State for India. The Secretary of State has been called the Great Mogul, surrounded by a harem of permanent officials. I do not know whether the first portion of that description is complimentary or not, because in my opinion the Great Mogul was not always a tyrant, and I am not yet satisfied that the influence of Whitehall has always been to the disadvantage of India, nor am I satisfied that the harem which surrounds him does not exercise an influence which is really for the benefit of my country.

I should be very sorry if the opinion expressed by my friend Sir Muhammad Shafi in favour of the abolition of the whole of the India Council were accepted. I am of opinion that as long as certain subjects, like the Army and Foreign Relations, are reserved, you must have by the side of the Secretary of State one or two men who will be able to give him first-hand advice. I should be very sorry if under those conditions, when Foreign Relations are reserved, the Secretary of State had not by his side a man of the eminence of Sir Denys Bray. I would have Sir Denys Bray brought from South Africa, if he had gone there, to help us a little still. I say this by way of illustration only, and I regret that he is here present, because I did not mean to say this in his presence.

Similarly, there may be other men there—as there are, to my knowledge—who would be exceedingly useful to the Secretary of State in regard to the subjects which he has to administer. But as so many subjects have been or will be taken away from him, and as I am of opinion—I am a full believer in complete provincial autonomy—that the Secretary of State should not interfere in provincial matters, I feel that there will be very little work left for a very large number of the men who are there at present. I do not know the exact number; it may be twelve or thirteen—

A Member: Fourteen.

Sir Sultan Ahmed. Out of fourteen we might be able to finish with twelve straight away, but I would keep two people who would be able to advise the Secretary of State on matters concerning the Army and Foreign Relations, and possibly also in regard to finance.

Before I leave the question of the Secreary of State, I should like to say that I would take away a large number of the powers he has at present with regard to pensions and the payment of salaries and so on and vest all these powers in the High Commissioner, who would be our agent in this country

With the regard to the number of the Central Executive, in my opinion you cannot fix the number, but as far as I can see seven would perhaps be appropriate I would certainly not keep the Commander-in-Chief there He is there like a bull in a china shop. I would vest the power of appointment of the Ministers in the Viceroy who, I have absolutely no doubt, will take into consideration the rights of the minorities in making the appointments.

With regard to the position of the Viceroy, I should like to make a few observations a little later, because I want now to deal with the Ministers.

I would have the Ministers dealing with Defence and Foreign Relations directly under the Viceroy and not responsible to the Legislature, but I would have them in the Cabinet along with the other Ministers, and I fully accept the principle enunciated by

Sir Tej Bahadur Sapru. I would have joint consultation between the transferred Ministers—if I may use such an expression, I mean those Ministers who will be responsible to the Legislature —and those Ministers who will be responsible to the Viceroy. There will be one Cabinet consisting of both, and I would have joint and free consultation of both the wings on all the subjects. The greatest advantage that I see in the arrangement proposed by Sir Tej Sapru is that the members of the Cabinet responsible to the Viceroy will be able to exercise great influence on those Ministers who will be responsible to the Legislature, and *vice versâ*. The proposal of the resignation of the "Reserved Ministers" with the "Transferred Ministers" has my warm approval.

I should not have the Viceroy to preside over the deliberations of the Cabinet normally, but I would give him full power and discretion in the constitution itself, to summon the Cabinet and to preside over the Cabinet at any time he likes.

The powers of the Viceroy, in my opinion, should be very extensive. I may summarise those powers. He will have, as I have said, full power and discretion to summon the Cabinet and to preside over the Cabinet; he will have power to appoint all the Ministers; he will be able to exercise what I may call emergency powers to keep law and order, and also for the protection of minorities; and when he finds that the external loan which has been contracted by India will in any way be jeopardised, he will have full power to interfere. Lastly, he should have full power, in my opinion, to withhold assent to any measure which will, in his opinion, completely upset the constitution in the Provinces or affect the peace and tranquillity in the whole of India or in a major portion of India. We know that law and order is going to be "transferred" in the Provinces completely, but if there occurs anything which will affect the peace and tranquillity of more than one Province or which will become an all-India question, in that case also I think it is necessary that the Viceroy should interfere.

The next question, which I think is very important, is that of the stability of the Executive. How can that be secured? In my opinion—and in this there is, perhaps, a slight difference of opinion between my learned friends Mr. Jayakar, Sir C. P. Ramaswami Aiyar, and myself—I would not have a vote of censure unless and until one-third of the members of both Houses ask for such a motion, and I would not turn out the Ministry except by a two-thirds majority of both Houses, irrespective of whether the members come from British India or from the Indian States, because in my opinion if you make that discrimination you cut at the very root of federation.

With regard to the tenure of office of the Ministers, I would make that for five years, for each member.

One other point on which I should like to make a few very brief observations is finance. There must be in the constitution

a clear provision guaranteeing security; that is to say, all the debts that have been incurred in the past, either in the shape of loans or in the shape of pensions, salaries and so on, must be fully guaranteed.

Chairman: Would you mind my asking you a question? I am afraid it is difficult for me not to put it in a legal form, but I will put it in a non-legal form if I do not get your mind to it. You say there must be a guarantee for the security of debts: what is the sanction of the guarantee? To put it in a non-legal form, how do you enforce it? I had better put it more simply, because I am using legal terms. Let us suppose, for example, the Government of India were to guarantee that I am not for a moment suggesting that they would not keep their guarantee, I think they would, but I have other people to persuade too, and what I want to know is this. Let us suppose it happened—I do not say it would——

Sir Sultan Ahmed: I can answer that at once The Viceroy should do it. I thought I had made that clear in the earlier portion of my submission.

Chairman. I have got it; that is all I want

Sir Sultan Ahmed With regard to the future loan, that will be dealt with by the expert we have here, Sir B N Mitra, who will say what security should be offered for it But there is one thing which, as a layman, I can definitely state, and it is this. There should be no legislation and no incurring of loans in other countries which would in any way diminish the security of the loans which we have already incurred In effect, I am following the Marquess of Reading on this point, when he discussed the matter with my friend, Mr. Jayakar On these points we ought to be perfectly clear and absolutely frank and honest, if we want to have a responsible government in India

As regards discriminatory legislation, I find myself in a slight difficulty. I am clearly of opinion that such legislation should be avoided, but I do not know whether we cannot with advantage follow the constitution of Australia and the other Dominions on this point. If "discriminatory legislation" means discriminatory legislation against England, I would say, we should not do it; but if it means something more, and curtails the powers of the Federal Government, I should have grave doubts about the correctness of that position, because, after all is said and done, the first thing we must look to is the interests of India. We must protect the industries of India; we must try to develop the industries of our own country, and if in doing so we have to legislate in a manner which is permissible by other Dominion constitutions I do not really see why we should be prevented from doing so. As regards discriminatory legislation so far as Great Britain is concerned, I think the formula which the Marquess of Reading suggested, and which was practically accepted by Sir Tej Bahadur Sapru, might be suitable; some formula can be adopted which will ensure that.

Sir B. N. Mitra: Sir, I can do no better than follow the precedent of the previous speaker and begin by thanking you, my Lord Chancellor, the Marquess of Reading and Sir Tej Bahadur Sapru, as well as others, for the contributions they have made to the success of this debate. So far as I am concerned, it is well known that I am not a politician, and politics has not been my trade; but perhaps I shall be able to show how a man with a certain amount of common sense looks at this whole business.

After the weighty words spoken the other day by my erstwhile and revered chief, the Marquess of Reading, with his wide and personal knowledge of India and Indians, it is hardly necessary for me to dilate on the extreme importance, from the point of view of peace, tranquillity, and good government, of giving to India a form of government at the Centre under which the Executive will be responsible to the Legislature to the maximum extent practicable under present conditions.

As Sir Sultan Ahmed has pointed out, that magnificent speech of Lord Reading's is already having its effect on India. Sir Samuel Hoare is still doubtful of the wisdom of such a step as we are contemplating, though he has not wholly banged the door on it, and he prefers a strong Government at the Centre. May I ask him in all sincerity, can any Government be stronger than that based on the good will and contentment of the governed? I fully admit that it is possible for the British Government to rule India by the force of the bayonet, but, pursuing the line of argument advanced by another great Conservative statesman in a somewhat analogous case, may I ask whether India so ruled will be a contented India, and will not a discontented India be a source of weakness to England, a thorn in her side, and a menace to the peace of the world? I implore Sir Samuel Hoare and those who share his line of thought to reconsider the matter and to take a statesmanlike view of the situation. Sir Samuel Hoare referred to a passage on page 98 of the Government of India's Despatch of 20th September last, as supporting a doubt in his mind as to whether a scheme like the one we are now discussing would be acceptable to Indian public opinion. May I venture to observe that he has not fully appreciated the Government of India's point. The passage reads as follows: "Our honourable colleague makes it plain that his plan is contingent on the acceptance by Indian opinion of some arrangement in regard to the Army on the lines adumbrated by the Statutory Commission. So far as Indian opinion has yet disclosed itself, we see little prospect of any such arrangement being accepted." The arrangement in regard to the Army adumbrated by the Statutory Commission was that responsibility for the Army in India on its existing basis should rest definitely with the Imperial Government, though the bulk of the expenditure would be paid for from Indian revenues, and that the Government of India should raise, again at its own expense, military and naval forces of its own, independently paid for and controlled, which should contain no British element.

is quite a different proposal in regard to the Army from the one which we are now considering, and which brings the problem of defence from the outset within the purview of the Government of India, though it may be reserved to the Crown for a period as a transitory arrangement.

I should also like to invite Sir Samuel Hoare's attention to what has been said in regard to his idea of a strong Central Government in paragraph 11 of the Despatch from the Government of Bombay, who in recent months have been brought face to face to a very considerable extent with the growth of national sentiment in India.

I have no desire to lengthen my preliminary remarks or to repeat the results of my personal experience of the working of the Executive Government at the Centre of India or of the Legislative Assembly, which are much the same as has been brought out in the speeches of Sir Tej Bahadur Sapru, Sir Muhammad Shafi and Mr. Jayakar. Before, however, turning to the question of special provisions required in the new constitution in connection with finance, I should like to make a few observations in regard to certain other matters connected with the scheme which we are now [illegible] me is almost identical with one which I [illegible] e of British India in 1928. There was no [illegible] States coming into a Federation at that [illegible] destroyed all the relevant papers after I [illegible] India, it is possible that my recollection of my ideas then may enable me to place before the Committee some suggestions which may be of some use to them.

I shall first deal with the Crown subjects. The first item which I shall take up is Political. One of the services included under this head relates to the charges of Residents and Political Agents employed in connection with the Indian States. They are not ambassadors or consuls of British India in the Indian States. I have heard them described as the eyes and ears of the Viceroy—not the Governor-General—in regard to his relations with the Indian States As mentioned by Lord Reading, these relations have hitherto in actual practice come within the purview of the Governor-General in Council, and accordingly their charges have appropriately formed a part of the expenditure of the Government of India. In future, some of these relations will be transferred to the Federal Government, of which the States will become a part, and obviously it will not be necessary to employ Political Agents for the management of those relations. On the other hand, certain of the relations to which Lord Reading referred will remain with the Viceroy, not the Governor-General, and the Viceroy will probably still require a staff of Political Agents, etc., for the proper discharge of his responsibility. Obviously, however, neither will the service be administered by the Federal Executive nor will its cost be met out of the Federal Budget The cost amounts to about three-quarters of a crore a year. On the other hand, there are the receipts from tributes from

the States, apart from contributions for specific purposes, to which the Federal Government has hardly any claim. One way of adjusting the matter would be to form a separate fund from which the charges can be met. I know that the States, at any rate some of them, want the tributes to be remitted. That, and a more equitable distribution among them of the cost of the service, are, however, a matter for them to settle with the Crown; it is no concern of the Federal State. At the same time, I am not without hope that in no distant future Their Highnesses will consent to even these relations being brought within the purview of the Executive of the Federal State, and should that contingency happily arise, there would be no need for this particular service.

The balance of the political expenditure, including frontier watch and ward, is connected partly with problems relating to the defence of the Frontier—namely, in Baluchistan, the North-West Frontier and the North East Frontier, and partly with the ambassadors or consular agents in foreign countries like Persia, Afghanistan, Nepal, etc. The latter part relates to the external affairs of the Federal State. The former relates to the problems of its defence. We must accordingly include in the item of defence not only the expenditure on the military services but also expenditure of the character to which I have referred. We must also include in this item the ecclesiastical charges, which are intimately connected with the Army.

I should at this stage like to make a digression. A question has on several occasions been asked in this Committee as to whether the federal sources of revenue as already allocated will be adequate to meet the federal expenditure. The yield of these sources according to the budget figures of 1930-1931, and without excluding Burma, are: Customs (net after excluding appropriation to Road Fund), 52½ crores; Salt (net), 6 crores; Opium (net), 2 crores; Currency (net), 2 crores; total, 62½ crores. On the expenditure side we have Defence, namely, Military, including ecclesiastical, 55 crores; Frontier, 3½ crores; total, 58½ crores. External affairs ½ crore; Post Office and Telegraph (net), ¾ crore; General Administration and other Civil charges of the Federal Government, 3 crores. The expenditure is thus slightly in excess of the revenue. But the deficit can be met by a contribution from the surplus of Central heads, where the sources of revenue are: Railways, 5¾ crores, and Income-tax, 17 crores; total, 23 crores; and the items of expenditure are: Interest and Sinking Fund Charges, 14½ crores; Civil Expenditure, 7½ crores. The figures are necessarily very rough as full details are not available. I do not pretend to any degree of accuracy and give them more for purposes of illustration.

Sir Akbar Hydari: What is the Railway figure?

Sir B. N. Mitra: 5¾ crores.

I do not propose to overburden my picture by dealing either with the claims of Their Highnesses for a share of the Cus

revenue or with the proposals contained in what is known as the Layton scheme. In regard to the first of these items, I think that in a previous discussion it got mixed up with the question of adjustment of Excise Duties, and my recollection is that the Committee agreed to my proposal that those matters might be left over for an exhaustive enquiry after we had settled with the skeleton of the future constitution. Similarly, in regard to the proposals in Sir Walter Layton's scheme, they also can be settled independently of the constitutional problems with which this Committee is concerned. Indeed I saw in one of the papers recently that the Government of India had already authorised the Government of Bombay, in view of their deficit, to impose a centime additional on income-tax.

I think, however, that it is necessary for me to point out at this stage that there is one strong objection to this separation of our budget into a federal group and a central group. The loans which we have raised in the past in England are, under Acts of Parliament, charged on the revenues of India; and any attempt on our part to earmark certain items of such revenue in future for certain purposes may contravene the provisions of these Acts, and may, indeed, engender suspicion in the minds of investors in this country and react on our credit generally. I think, therefore, that we shall have to keep a combined budget, treating all the heads as federal, though the constitution will make clear the extent to which these heads affect the Indian States. This may also constitute a consideration in support of Lord Reading's idea that both the Federal Executive and the Federal Legislature will have to deal with all subjects irrespective of the fact of whether they may concern the States or not.

In regard to the Crown subjects, defence and external affairs, I do not think it will be necessary to reserve them to the fullest extent. In the case of external affairs there are various matters connected with the Dominions, the League of Nations, and the International Labour Office and certain other international questions—commercial treaties, treatment of Indians overseas, etc.—in regard to which I see no reason why the Executive should not act as an agency responsible to the Legislature. I suggest that these various matters should be separated from the others, and the latter only treated as reserved subjects. It is not possible for me to suggest a complete list of items which will fall within the two classes, but I think I have made my ideas sufficiently clear. Similarly, in the case of defence, while I agree that in all matters relating to the strength and the organisation of the forces, and the conditions of their service, the final voice should, during the period of transition, rest with the Governor-General acting as the Agent of the British Parliament, I see no reason why the Federal Executive should not be responsible to the Indian Legislature in regard to the execution of agreed schemes of Indianisation, or the development of the territorial army as opposed to the standing

army, nor am I sure that it is necessary to give the Governor-General any reserved powers in regard to all legislation affecting defence, other than emergency powers.

To my mind, as regards the reserved part of these two subjects it would suffice to have one Minister not responsible to the Legislature, and I suggest that the Prime Minister of the Government of India should himself take over that part of the work for which his Ministry will be responsible to the Legislature, though in regard to such matters he will depend on the assistance and co-operation of the other Minister—that is, their responsible Minister. The Prime Minister need not have any other portfolios, and this will enable him also to function as the leader of the House, an appointment to which, Sir, you referred the other day.

I agree with Sir Tej Bahadur that the selection of the Minister for the reserved subjects should rest with the Governor-General and that he may in practice be an Indian non-official. I do not, however, support the idea of his being taken from the elected members of the Legislative Assembly, as his actions might bring him in conflict with his electorate. In my view provision for the reserved subjects, or for a Minister administering them, should not find a place in the Parliamentary Act promulgating the new constitution, but should be made, if possible, by subsidiary convention, so that the transitory arrangement may be abandoned automatically, or at the discretion of the Governor-General by efflux of time, and without recourse to further Legislation in the British Parliament. What is more important, however, is that there should be a subsidiary and agreed convention fixing the strength of troops and establishments and the expenditure for a period of, say, five years, the position being examined, if necessary, by an independent tribunal, before the end of that period, after which a revised settlement for another era may be made, if found necessary. Such an arrangement is of the greatest importance from the point of view of the Finance Minister of the Federal Government, and it will minimise the possibility of trouble with the Federal Assembly. The agreed sum should then be made a third or a fourth charge on the consolidated fund. Of course, charges of collection must constitute a first charge, and interest and debt must form a second charge. In addition to this agreed sum which will be chargeable to the consolidated fund, it will be open to the Federal Assembly to vote sums of money for carrying out schemes of Indianisation, including the establishment of an Indian Sandhurst, or for developing the territorial army as distinguished from the standing army.

I may mention, Sir, that even at present the army works under a system of contract budget with the Government of India, and my proposals contemplate that in future there should be a contract not only for army expenditure but for all reserved expenditure between the Governor-General and the Federal Assembly.

Lord Reading. Sir Bhupendra Nath Mitra, do you mind just explaining to me? If I understood you aright, you said that there would have to be a federal supply voted in regard to Indianisation?

Sir B. N. Mitra: Yes, Sir.

Lord Reading: How do you propose to do that? I do not quite follow it, because the Indianisation, save for such schooling as you may give with your Indian Sandhurst, would work in this way. I can understand your Indian Sandhurst being put on federal expenditure. But as to the cost of Indianisation, putting your Indian officers as commissioned officers into the various higher commands as they proceed, how do you separate that from the cost of the army and put it on to the federal budget instead of as part of the reserved subject?

Sir B. N. Mitra: Of coure, Sir, I am simply envisaging what may happen, and I will give one illustration. Let us assume that the agreed scheme of Indianisation provides that a certain number of recruits will be taken from the Indian Sandhurst, and that this number of recruits proves to be in excess of the annual wastage in the ... ll be left with a surplus ... rs The Governor-Gener... y: Now I cannot meet ... of these surplus officers, ... vote the money for that purpose.

Sir Samuel Hoare: Yes, and, Sir Bhupendra, if they vote the money, where exactly would the responsibility lie?

Sir B. N. Mitra. In regard to the scheme of Indianisation, that is the agreed scheme of Indianisation, for which money has been voted by the Legislature, the responsibility to see that it is being given proper effect to will lie in this way. As I have already said, the Prime Minister should keep the matter in his own hands, because there is no other responsible Minister concerned, and it will be for him to arrange to get regular reports, monthly or periodically, from the irresponsible Defence Minister, so that he can assure himself from time to time that the policy which he has placed before the Federal Assembly is being given effect to.

Sir Samuel Hoare. Yes, but in actual experience would not it be very difficult to have this kind of divided responsibility?

Sir B. N. Mitra: No

Sir Samuel Hoare: Let me just finish the sentence. After all, Indianisation is not in a Province exclusively by itself, anyhow at present. You will have units partially Indianised. How are you going to have that kind of divided responsibility, when you have got the Army Minister responsible for half the battalion, to put it into a concrete case, and the Prime Minister, so I understand from you, responsible for the other half? Is that what you say?

Sir B. N. Mitra: I have never said so. The administration should be in the hands of only one Minister. The Prime Minister

will come in in this way. Take the case of the Indian Sandhurst; that is very specific. He will see that the policy adopted in regard to the Indian Sandhurst is being duly carried out. Administration will probably be in the first place in the hands of the Commander-in-Chief, who will be there, though he will not be a Cabinet Member. I should like Sir Samuel Hoare to put it again. I have not appreciated it.

Sir Samuel Hoare: I understand your point with regard to the Indian Sandhurst; I can understand how you can isolate that. I cannot see how your plan is going to work out in units which are not yet fully Indianised.

Sir B. N. Mitra: I will come to that part. It will not be the Prime Minister's business or the business of the Federal Assembly to see that a certain unit is being Indianised and not another. What the Prime Minister will have to watch is that the rate of Indianisation settled in the agreed scheme is being carried through. He will probably every year obtain a list of the candidates who have passed out of Sandhurst, and information about their disposal; but he will not in any way interfere with the administration of that particular unit.

Mr. Gavin Jones: Then will the Commander-in-Chief be responsible for that part of the army to the Prime Minister?

Sir B. N. Mitra: He will be responsible to his own Minister; he will be responsible to the irresponsible Minister. He will have no direct responsibility to the Prime Minister. It is the irresponsible Minister who in this respect will be responsible to the Prime Minister. That to my mind is another reason why he should be in the Cabinet.

Sir Samuel Hoare: Then, if I understand you aright, it simply means that the Prime Minister will hold a watching brief to see that the arrangements made between the Crown and the Legislature are carried out.

Sir B. N. Mitra: That is right, Sir.

Lord Peel: He will get his list.

Mr. Jinnah: Is not this the point, Sir Bhupendra? What I understand Sir Bhupendra to say is this: That so far as the policy of Indianisation is concerned and the expenditure involved in the policy of Indianisation, such as the Sandhurst or military institutions, and so forth, that expenditure must come on the anvil of the Federal Legislature.

Sir B. N. Mitra: That is right.

Mr. Jinnah: But once you have an officer given a commission and having entered the army, then he enters the army like any other officer?

Sir B. N. Mitra: Quite.

Mr. Jinnah: And the entire management, as far as the army is concerned, and the responsibility, will be with the member in charge of defence.

Sir B N. Mitra. That is so; that is my point.

I agree with Lord Reading and Sir Tej Bahadur that this responsible Minister, if I may use that expression, should be member of the Cabinet of the Governor-General. Apart from e arguments already given in support of this arrangement, there two others which strike me. In the first place, his presence re will bring into prominence the fact that the army in India the army of the Federal Government, an expression which I ve borrowed from Mr Gavin Jones, though, as a transitory [illegible] in regard to specified matters he Governor-General and not [illegible] cond place, I know from ex- [illegible] or this irresponsible Minister [illegible] in a water-tight compartment, owing to the inter-depend- ce of subjects

After what fell from Sir Sultan Ahmed, I may be excused if ay something about my ideas as to the Secretary of State. The cretary of State will be the intermediary between the British rliament and the Governor-General in regard to matters for ich the Governor-General acts as an agent of the British Parlia- nt That will be the only extent of his control. I do not see at for this purpose he will require a Council I certainly should t wish to deprive the Secretary of State of the assistance of ad- sers, should he want such advisers. But there is no question of technical Council The Secretary of State has been provided th a Council in successive Government of India Acts, for the nple reason that particular functions have been assigned to the cretary of State in Council The most important of these func- ons relates to expenditure chargeable to the revenues of India, id as, according to my conception, the Secretary of State will not ive much power of interference in future in regard to expenditure iargeable to the revenues of India, I really see no advantage in iaintaining the Council, though certainly I should not deprive him f any advisers he may require.

Sir Muhammad Shafi Sir Bhupendra, is not it a fact that the ecretary of State has in what is known as the C I.D.—I do not nean the Indian C I D, but the British C I.D —the necessary gency for advice on military affairs?

Sir B. N. Mitra · That I do know. I believe also that he has as in adviser an officer from India But, anyway, I should leave the matter to him. Surely, Sir Muhammad, you do not want it to be put in the constitution that in no circumstances shall the Secre- tary of State take as an adviser an officer of Indian experience?

Sir Muhammad Shafi · No.

Sir B. N. Mitra: Then that meets my point. I do not want the Council, but thereafter I leave the fullest discretion to the Secretary of State to choose as many advisers as he may re- quire, with such qualifications as may be required of them.

Mr. Jinnah · Will that be a statutory Council?

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I agree with Lord Reading and Sir Tej Bahadur that this responsible Minister, if I may use that expression, should be member of the Cabinet of the Governor-General. Apart from the arguments already given in support of this arrangement, there are two others which strike me. In the first place, his presence here will bring into prominence the fact that the army in India the army of the Federal Government, an expression which I have borrowed from Mr. Gavin Jones, though, as a transitory arrangement, it is being administered in regard to specified matters a Minister responsible solely to the Governor-General and not the Federal Assembly. In the second place, I know from experience that it will be impossible for this irresponsible Minister work in a water-tight compartment, owing to the inter-dependence of subjects

After what fell from Sir Sultan Ahmed, I may be excused if say something about my ideas as to the Secretary of State The Secretary of State will be the intermediary between the British Parliament and the Governor-General in regard to matters for which the Governor-General acts as an agent of the British Parliament That will be the only extent of his control. I do not see that for this purpose he will require a Council. I certainly should not wish to deprive the Secretary of State of the assistance of advisers, should he want such advisers But there is no question of technical Council. The Secretary of State has been provided with a Council in successive Government of India Acts, for the simple reason that particular functions have been assigned to the Secretary of State in Council. The most important of these functions relates to expenditure chargeable to the revenues of India, and as, according to my conception, the Secretary of State will not have much power of interference in future in regard to expenditure chargeable to the revenues of India, I really see no advantage in maintaining the Council, though certainly I should not deprive him of any advisers he may require.

Sir Muhammad Shafi: Sir Bhupendra, is not it a fact that the Secretary of State has in what is known as the C I D —I do not mean the Indian C.I.D., but the British C.I D —the necessary agency for advice on military affairs?

Sir B. N. Mitra: That I do know. I believe also that he has as an adviser an officer from India But, anyway, I should leave the matter to him. Surely, Sir Muhammad, you do not want it to be put in the constitution that in no circumstances shall the Secretary of State take as an adviser an officer of Indian experience?

Sir Muhammad Shafi: No.

Sir B. N. Mitra: Then that meets my point. I do not want the Council, but thereafter I leave the fullest discretion to the Secretary of State to choose as many advisers as he may require, with such qualifications as may be required of them.

Mr Jinnah: Will that be a statutory Council?

Sir B. N. Mitra: No, it would not be a statutory Council.

Mr. Jinnah: Then what will it be?

Sir B. N. Mitra: All I say is this, that I cannot contemplate a specific provision being made in the Government of India Act of the future that the Secretary of State shall be deprived of such assistance as he may consider necessary for the discharge of his duties. He will not have a Council. He may have secretaries, he may have expert advisers, but all that surely cannot go into the constitution.

Lord Peel: May I understand exactly what you mean. You say he will have advisers. Of course he will have advisers who are now officials of the India Office; but do you want to wipe out completely or not the Indian Council, whether as having executive powers or even as a purely advisory body?

Sir B. N. Mitra: I do want to wipe it out.

Lord Peel: And, secondly, if you want to wipe that out, you want, as was suggested, not to have any sort of statutory Council; is that so?

Sir B. N. Mitra: That is so.

Lord Peel: Then that means you wipe it out altogether. You want the Secretary of State to have the advice solely of the officials of the Department; is that so?

Sir B. N. Mitra: That is so.

Sir Tej Bahadur Sapru: I understand Sir Bhupendra Nath Mitra to say that he does not want the India Council with the statutory duties and obligations cast upon it at the present moment.

Lord Peel: I think he is asking more than that.

Mr. Jinnah: Much more.

Sir Tej Bahadur Sapru: You want no India Council?

Sir B. N. Mitra: That is right.

Sir Tej Bahadur Sapru: No Council at all?

Sir B. N. Mitra: That is right.

Sir Tej Bahadur Sapru: And that is a view with which I agree.

Mr. Sastri: Everybody agrees with that on this side, I think.

Sir Tej Bahadur Sapru: In India there has been agreement on that question at any rate since the year 1885, when the Congress was established.

Mr. Gavin Jones: On this side we do not agree. Sir Sultan Ahmed does not agree and I do not agree.

Sir B. N. Mitra: Lord Reading has raised the question of the control of the Federal Executive and the Federal Legislature over the Provincial Executive and the Provincial Legislature in matters connected with law and order. You will remember that this cropped up as a wider question, and we have so far not fully discussed the matter. I can see no difficulty about legislative power.

indeed, other sub-Committees have been detailing the items for which there should be concurrent powers of legislation at the Centre and in the Provinces. At the same time, personally, I doubt the necessity of these concurrent powers in many cases. In regard to the Executive, I myself, hold that there should be *no provision* for the Federal Executive exercising any executive powers or control, whatever it may be, over Provincial Executives. My conception of the whole constitution, if I may say so, is based on ideas of absolute trust. We ought to allow the Provincial Executives the fullest scope for showing that they can rise up to their responsibilities, and I think, myself, that it would impede the harmonious working of the constitution if the Central Executive were given powers of interference over Provincial Executives, which it might be tempted to exercise, as is perhaps only human, too frequently. Sir C. P Ramaswami Aiyar has already given instances of cases where the Provincial Legislature under the existing conditions did not feel any diffidence in rising up to its full responsibilities in matters relating to law and order I am pretty sure that with the development of the constitution which we are here contemplating, those ideas of responsibility and the sense of responsibility will also grow I should rather prefer to provide for closer contact between the Central Executive and the Provincial Executive by a method of co-ordinating boards, to which I have already referred on a previous occasion And I hope that, at no distant future, on the co-ordinating boards will sit the representatives of their Highnesses also. You will then have All-India co-ordination, with no powers of control, except may be in very specified matters. The method will work more harmoniously.

Mr. Jinnah: What will be those specified matters?

Sir B. N Mitra Of course, that has come out, for example, in the Legal sub-Committee's Report and also in another sub-Committee's Report, though we do not all agree with some of the items there.

Mr. Jinnah: Sir Bhupendra you used this expression: "There ought to be a board, it should have no control over the Provincial matters, except in certain specified matters" What will those be?

Sir B. N. Mitra I cannot specify them at the present moment, to be perfectly candid, but it would not be beyond the competence of many of my colleagues here to determine such subjects I think one of the items is international obligations actually contracted. In a case of that sort, I am afraid there will have to be some provision for administrative interference from the Centre I think that is referred to in the report of the Legal sub-Committee, in which you took part.

Mr. Jinnah: No.

Sir Tej Bahadur Sapru: It dealt only with civil and criminal law, and we have arrived at certain conclusions with a view to making the machinery work smoothly.

Sir M. Shafi: International obligations have nothing to do with the Provinces; they are not the concern of either the Executive or the Legislature in the Provinces.

Sir B. N. Mitra: I am not sure of that, and I will give you a specific case. India becomes a party to an international health regulation. Naturally the Centre passes it on to the Provinces for administration, and the Centre has to assure itself that the administration is being carried on so as to implement India's international obligation.

Mr. Jinnah: It will have the power to do so under the constitution.

Sir M. Shafi: It is a Central subject.

Sir B. N. Mitra: It is sometimes overlooked that the administration is very seldom a Central subject.

Sir M. Shafi: Qua international obligations.

Sir B. N. Mitra: I personally know of a specific case. Take, for example, labour laws which have been enacted at the Centre with reference to international obligations actually undertaken—not internatioal obligations which may be undertaken in the future, but which have been actually undertaken. In a case of that sort it may be necessary to have a certain amount of control. I do not say it will be; there, too, I would trust the Provinces exactly as the Provinces are now trusted, and I would not impose any Central executive control. I think I should make it clear, as I made it clear on a previous occasion, that I am not in favour of this Central executive control, and for this reason, that Central executive control may mean expenditure by the Provinces, and if the Provincial Legislature refuses to pass the expenditure there is a conflict immediately.

My point is that there may be a few items—what they are I confess at the present moment I am not in a position to say—in regard to which it may be necessary to retain such control. If it is found by detailed examination that such control is not required, do not have it. I can now remember one item with regard to which there must be control, and that is the borrowing of Provincial Governments. There must be some control in the case of borrowing by Provincial Governments, and I think some safeguard must be provided there so as to have some reliable idea of the financial position of Provincial Governments; on that account the Joint Sub-Committee which sat under the chairmanship of Lord Zetland decided that the Audit Service should continue to be federal. That is a specific case which I can mention, but I am not aware of any other specific cases. All I can say is that, personally, I do not contemplate any large number of cases of this class, and I would not have it in the case of law and order until the need is more fully established; I would not make it a sort of general arrangement.

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Governors in regard to [illegible] action the Governor can
f the Cabinet fails to take the necessary action the Governor can
tep in He will step in first of all as a guide, philosopher and
riend; he will have to exercise that type of function very much in
he earlier stages of the new Indian constitution. If, nevertheless,
is Ministers do not take the necessary action, the Governor will
ave to exercise his reserve powers Similarly, the Governor-
eneral may have to take similar action in certain matters affect-
ng all India, but I find it impossible to define in any way the
owers of the Governor-General and of the Governors in this parti-
ular matter. I listened to the discussion which took place, Sir,
etween yourself and Sir C. P Ramaswami Aiyar, and the doubt
hich arose in my mind was this. Let us suppose, that at a cer-
ain stage when the Assembly or Council is not in session, there is
case, not of a breakdown of the constitution, but where the
overnor-General or the Governor considers it necessary that
owers should be taken immediately What is to happen then?

Mr. Jinnah · He can summon the Legislature

Sir B. N. Mitra: He may summon the Legislature, but he may
ink that before the Legislature meets the damage may be done,
e may come to the conclusion that the power in question must be
xercised at once. At the same time, I would provide for safe-
uards against the autocratic use by the Governor of his reserve
owers, and there should be a specific provision requiring the Gov-
rnor-General or the Governor to summon the Legislature at the
arliest possible opportunity after he has exercised his reserve
owers. He should then place his action before the Legislature
nd ask for confirmation by them of the action which he has taken
n an emergency. If the Legislature fails to support that action,
bviously, the following courses are open to him He can in the
rst place dismiss the Ministry, and have another Ministry which
may be [illegible] Legislature to see eye to eye with him
f they f[illegible] House and get another
House. [illegible] upport him or fails to
[illegible] he may himself then
ee eye to eye with him, [illegible] the had taken was unnecessary, and
e convinced that the action the had taken was unnecessary, and
e can amend his action and cancel it. If he is still not persuaded
hat his action was not the correct one, what will happen then is
nore than I can foresee. It may in the last resort mean a suspen-
ion of the constitution. But these are more or less, if I may say
o, attempts to find solutions of problems which I hope will rarely
occur in practice.

Chairman · I quite agree with you.

Sir B. N. Mitra: I also agree that provision should be made in
the constitution for safeguards in regard to [illegible] apart
from the emergency powers or reserve powers vested in the [illegible]
nor-General. A particular form of safeguard which [illegible]

various requirements is the existing power to withhold assent to a Bill or to reserve it for the assent of His Majesty. Provision for these powers was made in the constitutions of most of the Dominions when they were introduced. The former power is no longer exercised in practice, though in the case of Canada it was exercised for seven years, namely, from 1867 to 1873. In regard to the latter power, it is now held that it would not be in accordance with constitutional practice for advice to be tendered to His Majesty by His Majesty's Government in the United Kingdom against the views of the Government of the Dominions concerned. India can hardly complain, however, if at the outset of the introduction of a Dominion constitution, similar powers are taken in her case, the powers falling into disuse with lapse of time.

Chairman: Yes.

Sir B. N. Mitra: A provision of the nature to which I am referring will meet all reasonable requirements in regard to most matters, including unfair or inequitable discrimination in commerce or commercial matters, though in regard to this particular matter I, for one, see no objection to the adoption of an agreed convention on the lines suggested by the Marquess of Reading.

I shall turn finally to the special safeguards which both Lord Reading and Sir Tej Bahadur Sapru agree should be introduced in regard to financial matters. The particular matters mentioned are charges connected with the public debt, pensions, cost of the Army and any obligations of State, internal loans—the particular point mentioned was a properly balanced budget—external loans and exchange and currency.

Now, Sir, in regard to charges connected with the public debt, I agree that all that is required is a clause in the statute acknowledging in the most explicit terms India's liability to pay those debts and interest on them. There should also be a provision that interest and connected charges on all debt should be the second charge on the consolidated fund, the first charge being obviously the charge of collecting the revenue.

I am not in favour of the idea of any examination of that debt, and I have no doubt in my mind that people who talk of this examination are apt to think rather loosely. Here, for example, I have heard in this connection the question raised of capitation charges, the charge of the South Persian Rifles, and so on. It is overlooked that these are revenue charges and not charges which have been met from loans. I quite agree that in future if disputes were to arise between England and India with regard to revenue charges—for instance, the capitation rate or any similar charge—the matter should be referred to an independent tribunal. I understand the Imperial Conference contemplates the setting up of an independent tribunal to adjudicate on disputes between Great Britain and the Dominions or between two Dominions.

Chairman: Yes.

Sir B. N. Mitra: If my information is correct, that would be the body to adjudicate on these matters.

Chairman: Yes.

Sir B. N. Mitra: Let us here no more of this talk of repudiation of debt, or even of examination of it. I have not the slightest doubt that people who talk in this way do not really mean anything about the matter.

Sir M. Shafi: What was proposed at the Imperial Conference was not a permanent tribunal but an *ad hoc* tribunal when any dispute arose between Great Britain and one of the Dominions or between Dominion and Dominion.

Chairman. Thank you. That was what Sir Bhupendra Nath had in mind.

Sir B. N. Mitra: Yes, that is what I had in mind Now we come to pensions and the cost of the Army and other obligations of state Well, these obligations may arise under provisions of law, in which case there is no difficulty about them, or they may arise under conventions in the case of Defence and External Affairs to which I have already referred—agreed conventions—and they will also become recognised charges on the consolidated fund. Pensions are merely liabilities and they, too, should be met in the same way from the consolidated fund.

Here I should like to make one observation in regard to what fell from my friend Mr. Jayakar yesterday He talked about the relation between pensions and the rupee. It is quite possible that what he was referring to was the fact that certain rupee pensions are at present paid in England at the rate of 1s 9d. Well, if so, that is an existing liability. These officers, when they entered the service, knew that that was one of the conditions of their service. By all means take away that concession with regard to new entrants to the Services, but it would be wholly wrong to take away this right from people who, when they entered the Service, knew that this concession would be given to them. It practically converts the rupee pension to a sterling pension, and that obligation must remain.

I must next deal with external loans, because I think I can get rid of that subject without much difficulty. In the case of loans raised by the Dominion Governments in England, which are classed as trustee securities, certain rules are enforced. I understand these rules are as follows:—(1) The Colony—it has now become a Dominion—shall provide by legislation for the payment out of the revenues of the Colony of any sums which may become payable to stockholders under any judgment, decree, rule or order of a court in the United Kingdom. (2) The Colony shall satisfy the Treasury that adequate funds—as and when required—will be made available in the United Kingdom to meet any such judgment, decree, rule or order. (3) The Colonial Government shall place on record a formal expression of their opinion that any Colonial legislation

which appears to the Imperial Government to alter any of the provisions affecting the stock to the injury of the stockholders or to involve a departure from the original contract in regard to the stock would *properly* be disallowed.

Now these three rules, as they stand, and as I interpret them, practically provide *for an examination* by the Treasury of the financial position of the borrowing State when it wants to float a loan in England to be classed as a trustee securtiy, and I may say here that these trustee securities, being popular with borrowers, naturally carry, generally speaking, a lower rate of interest. I see no reason why this Dominion Government of India should not submit itself to similar conditions. The third one, I admit, implies *interference* with the Legislative powers of the Dominion; but the matter came up for discussion at the Conference on the operation of Dominion legislation and Merchant Shipping legislation last year.

Chairman: That is right. There is a special passage about it on the left-hand page.

Sir B. N. Mitra: Yes. I will quote that in passing: "We desire to place on record our opinion that, notwithstanding what has been said in the preceding paragraph, where a Dominion Government has complied with this condition and there is any stock (of either existing or future issues of that Government) which is a trustee security in consequence of such compliance, the right of disallowance in respect of such legislation must remain and can properly be exercised." I am told that the Imperial Conference this year adopted that recommendation.

Chairman: Yes.

Sir B. N. Mitra: Now, if that is the position in the case of the Dominions, I see no reason why India should not accept a similar position in regard to herself when she attains practically Dominion Status in the new constitution.

Sir Muhammad Shafi: Sir Bhupendra, you said just now that these trustee securities, being popular with the borrowers, carry a lower rate of interest. Did you mean borrowers or lenders?

Sir B. N. Mitra: Oh, I am sorry; of course I meant lenders. Quite correct.

I shall next *deal* with the question of exchange and currency. I entirely agree with Sir Tej Bahadur Sapru that let us have a Reserve Bank, and let us get rid of this difficulty. I do not want to pursue the point as to the reasons which led to the failure of the last Reserve Bank Bill, except to say this, that Sir Tej was perhaps not wholly correct in the picture he painted. Mr. Jinnah probably knows a little more about it. However it will not be permissible for me here to disclose secrets. But the trouble is that the present time is most unfavourable for attempting to establish a Reserve Bank. If His Majesty's Government would be kind enough to provide us with the necessary money as a loan, I am pretty sure that India will

not object to starting a Reserve Bank on proper lines. I have recently presided over the deliberations of a banking enquiry committee in India, and I came across very few Indians, a practically negligible number, who did not hold that the establishment of a Reserve Bank in India at the present day was essential from the economic point of view. The only difficulty here is really a practical difficulty. I did not understand the Marquess of Reading to say that until this Reserve Bank is established, finance is not to be transferred. I think I put the question to him, and I do not think that is his point of view. Now, what is to be done until the Reserve Bank can be established? At the present moment there are statutory obligations on the Government of India under which it has to maintain exchange and to meet the requirements for currency. It is possible that in the new Federal Government, when it has been established, the Executive or the Legislature may want to amend the existing legislation in these matters. If the Governor-General is then satisfied that the changes proposed will not be in the true interests of India, he can certainly deal with that legislation under the powers vested in him and which have already been referred to. Apart from that I cannot see what other safeguards could be introduced.

Lord Reading: Sir Bhupendra Nath, I am not quite sure that I understood you. You said something with reference to some observations I made yesterday about the establishment of the Reserve Bank. The point that I was making was that the currency and exchange would have to be dealt with by a Reserve Bank, that the management of the currency and exchange must be in the Reserve Bank, and that until that had been done you could not transfer, you could not change.

Sir B. N. Mitra: Was that the point you made?

Lord Reading: Yes.

Sir B. N. Mitra: I did not understand you to put it in that way.

Sir Muhammad Shafi: Lord Reading's point was limited to currency and exchange: it did not extend to finance generally: it had nothing to do with finance generally.

Lord Reading: No, it is currency and exchange that I was dealing with.

Sir Samuel Hoare: Then just to carry that a point further, supposing finance was transferred on those conditions, and currency and exchange were reserved, and there was no Reserve Bank owing to the impracticability of setting it up now for some time, how would currency actually be dealt with then?

Sir B. N. Mitra: By the future Government.

Sir Samuel Hoare: Then currency would be transferred before the Reserve Bank was set up?

Sir B. N. Mitra: That was my point.

Sir Samuel Hoare: I understood that it was not Lord Reading's point.

Lord Reading: Quite right. My point was that it cannot be transferred until then.

Sir B. N. Mitra: Your point was that finance cannot be transferred——

Lord Reading: No, it is the confusion of the words. I did not object to finance being transferred. What I objected to was currency and exchange being transferred until you have a Reserve Bank established. It is only with reference to currency and exchange.

Sir Samuel Hoare: But then—I am sorry to press my point again—but then who would administer the exchange?

Sir B. N. Mitra: I was going to pursue that point myself. I should like to know how are currency and exchange going to be administered. That is the precise point which Sir Samuel Hoare is referring to, because currency and exchange are largely connected with finance. As a matter of fact, in my view, the reservation of currency and exchange is secured effectually by the power of the veto of the Governor-General over Bills. The way the Ministers may play with either exchange or currency is by attempting to amend the existing law. The existing law imposes an obligation on the Government to do certain things to maintain exchange and currency.

Lord Reading: Those must continue.

Sir B. N. Mitra: Well, yes, of course, those obligations will be there until the obligations are removed by an amendment of the Statute, and that is my point. By transferring, you see, you are not faced with any real risk, because the first step to be taken would be an attempt to amend the existing laws relating to exchange and currency and to remove whatever obligations rest on the Government to carry out the provisions of those laws. Well, there is the safeguard already, to which I have referred. The Governor-General can veto that legislation and that ends the matter.

Mr. Jinnah: I want to understand this point, because it is very important. Do I understand Sir Bhupendra Nath Mitra to say that so far as the currency and the exchange policy and law at present in force, and their carrying out or their administration are concerned, they can only be regulated according to the laws that are in force?

Sir B. N. Mitra: That is right.

Mr. Jinnah: One minute, please. If there is not any other person carrying out that policy it will be the Finance Minister in your future constitution.

Sir B. N. Mitra: That is right.

Mr. Jinnah: But, says Sir Bhupendra Nath Mitra, he will be bound to carry out that policy and the laws and the administration

which is laid down, and against the danger that the legislature may, if it takes it into its head to do so, modify those laws, he says there is a safeguard, and that is the Governor-General.

Sir B. N. Mitra. That is right.

Mr Jinnah· And the Governor-General can then say, "No, it is too dangerous for me to accept this modification and I will not allow it." That is your point?

Sir B. N. Mitra. Yes, that is so.

Lord Reading: Well, I do not want to pursue it, particularly a discussion, but I wonder whether Sir Bhupendra Nath Mitra, or anyone who is opposing the view that I was presenting, has thought of what the effect would be of leaving the law in this position. You realise that if that is what is to take place, what must happen in India and what must be the effect upon the finances of India if it is left open to change it until you have established your Reserve Bank?

Sir B. N. Mitra. It is not left open to change it.

Lord Reading. But you must not put upon the Viceroy to have to refuse a Bill which is one of the things that I want to avoid as much as possible I want to avoid putting obligations on the Viceroy which would mean that he would have to oppose himself to the Legislature. We want to prevent that I mean it ought to be left.

Sir B. N. Mitra: Your point is that the safeguards should be that no change should be made in the existing legislation in regard to currency and exchange until the Reserve Bank is established?

Chairman: Just wait one moment, please It is one o'clock, and I think this is a splendid moment to adjourn for lunch. Perhaps you might just think of this during the lunch time

(*The Sub-Committee adjourned at 1 p m. and resumed at 2-45 p.m.*)

Chairman: Before Sir Bhupendra starts, I am sure you would like me to read this letter which the Prime Minister has received from the King-Emperor's private secretary in answer to the resolution of sympathy that we passed with regard to the King-Emperor's loss The Prime Minister sent it to him and the answer is: "Dear Prime Minister, In Lord Stamfordham's absence, I have laid before the King your letter of yesterday, together with the report of the proceedings at the opening of yesterday's sessions at the Indian Round Table Conference, which you as Chairman have been good enough to [illegible] greatly touched by the sympath[illegible] refer to the grievous loss which [illegible] you to convey to them all an[illegible]ty's heartfelt thanks."

Sir B. N. Mitra: Sir, when we adjourned for lunch I was dealing with the question of safeguards in regard to currency and

exchange. My proposal is that if the Federal Executive and the Federal Legislature of the future wanted to amend by legislation the statutory provision relating to currency and exchange, the Governor-General should refuse assent to such legislation if he is satisfied that such an amendment would not be in the best interests of India. As I understand it, the Marquess of Reading wants a distinct provision in the Parliamentary Act forbidding such legislation until the establishment of a Reserve Bank. I should for the present mention two specific objections to Lord Reading's proposal, and give later on certain general consideration bearing on this question.

In the first place, a provision of the sort contemplated would stand in the way of any amendment of the existing statutory provision, even if such amendment was admitted on all sides to be required in the interests of India. It is very difficult in these matters of currency and exchange to dogmatise or to forecast with any degree of precision what may happen in the near future. I wonder how many of those who at one stage supported the 1s. 6d. ratio do not now hold that it was a mistake for the Government to have allowed exchange to go up to *1s. 6d.* and remain at that figure for some years until it was standardised in 1927 at that figure. I, for one, have always doubted the wisdom of the first part of that policy, though I had to admit that there was not much option but to stabilise it at that figure after it had reached that figure and remained at that figure for some years.

In the second place, I venture to observe that even the establishment of a Reserve Bank cannot possibly stand in the way of the Federal Executive and the Federal Legislature of India passing legislation affecting the present position in regard to currency and exchange after the Bank has been established; and the Bank will have to give effect to the policy of the responsible government.

I shall now turn to the question of safeguards for securing a properly balanced budget. I have given the matter a good deal of thought, and I fail to picture in my own mind what sort of safe-guard is possible: a safeguard which would not detract from the responsibility of the Ministry to produce a balanced budget and therefore precipitate a crisis of the nature apprehended. Moreover, is the balancing of the budget a panacea which will cure us of the apprehended evil? I should like to know on how many occasions in recent years have the Government of India, though they produced a balanced budget before their Legislature, failed to secure the balance in the end. What, for example, is the position in the present year? To the best of my recollection, in 1928-29 the Government closed with a deficit. They then imposed heavy taxation, with the proceeds of which, as realised in 1929-30, they hoped to get a small surplus. Whether they will get that surplus or not is open to doubt; and the position that will arise in the year 1930-31 is open to graver doubt. If we pursue the examination into two or three years before 1928-29, I shall not be surprised if the position is revealed that even then the Government of India had

[illegible] if we get the expression in the orthodox [illegible] current revenue, [illegible], and to all [illegible] have a scale of expenditure in excess of the yield of revenue; but I have no doubt that in this particular matter a responsible Minister of the future will be no less cautious than the present Government of India.

Apart from that, Sir, I cannot see what safeguards there can be. You can certainly provide in a new Government of India Act [illegible] balanced budget, [illegible] additional taxa- [illegible] But what will the result be? Will the position improve in any way from what it has been, say, in the last 12 months? If that is done—I leave out the question of the Ministers resigning, etc.—is not there the risk of that special legislation being disobeyed, and then you will be in no better position than you would have been without that special legislation? There will be no question of securing financial stability. In fact, the financial position will become much worse if that sort of legislation is actually enforced. I believe I am correct in saying that the Marquess of Reading, whose knowledge in financial matters is much greater than mine, does not himself contemplate any such safeguard as that

I think, Sir, in the course of this discussion you referred to one point, namely, safeguards against financial breakdown, and my friend Sir C. P Ramaswami gave you some answer If I may, I propose to dwell on that point for a little. In my opinion the greatest safeguard will lie in the fact that you are entrusting responsibility to a body of men who will have to answer for their misdeeds to another body of men who will represent all sections of the community which will suffer seriously from their misdeeds I can claim to have some intimate knowledge of the class of my countrymen from whom the Indian Finance Minister of the future will come, and I, for one, have no doubt that with the assistance of our splendid secretariat staff, to which Mr Sastri referred yesterday, and which even at the present day is almost wholly Indian, he will be able to rise up to his responsibilities, while I have no doubt that the Federal Assembly will apply the corrective, if and when necessary. I shall go further and say this, that I have every hope that when this system of responsible government is introduced in India with as little safeguard as possible, my countrymen will rise to their responsibilities, and, with the help of their Highnesses, who will form elements of that federation, they will make a serious effort to raise the amount of gold that will be required for the establishment of the Reserve Bank, without any external assistance.

I think it would be appropriate for me to mention at this stage something which bears on the question of racial discrimination in commerce. The example I will give you is in support of my view that, given the responsibility, a good deal of this irresponsible talk will disappear. Before I came here I was presiding over a Central

Banking Enquiry Committee, composed of about 20 men, most of whom were politicians. A question was raised there relating to the foreign exchange banks, and undoubtedly one or two of the members there did contemplate the entire expropriation of these banks; but the view of the rest of them, the substantial majority, was against the taking of any such action. I explained to my colleagues there at the beginning that that was not a political body, but a body dealing purely with economic questions of great importance, and none of them should allow whatever keen sense of disappointment they felt in the political field, owing to the state of the constitution and recent events in India, to cloud their judgment in regard to the important economic issues involved. But, Sir, assuming that, in spite of the best intentions on the part of everybody, a breakdown does happen—because, after all, we cannot wholly overlook the human element, which certainly finds a prominent place in the working of all constitutions—I should say apply the usual constitutional methods. Firstly, dismiss and change the Ministry. If the new Ministry behaves in an equally unsound manner, dismiss the House. In the last resort, suspend the constitution. You will then have this advantage: You will be able to tell India, and you will be able to tell the world, that you trusted the Indian with that responsibility; but he failed to discharge his responsibility, and therefore, in the interests of India and India alone, you had to take over again the reins of government.

In conclusion, I have one appeal to make to all my colleagues here, and particularly to the members of the British Delegations. Please do not try to provide in the new constitution for India for the imposition of safeguards much in excess of those introduced at the outset in, say, the constitution of Canada, unless the need for, and the practical advantage of, such safeguards are established beyond the possibility of any doubt. Otherwise, the imposition of such safeguards, while it will lead to no practical advantage, will engender in the minds of the people of India the feeling that your action is a further indication of England's distrust of the Indian. To use your own words of wisdom, Sir, let us build the new constitution on the rock of goodwill and not on the sands of suspicion. That act of statesmanship alone will operate as a much better safeguard than anything you can put in the constitution.

I should only like to add that in matters with which I have not specifically dealt I agree with Sir Tej Bahadur.

Lord Reading: I do not think the position has been quite understood. The provisions that I want for the purpose of safeguarding the present situation in regard to currency and coinage are designed in the interests of India. It is nothing which affects us here. The real point is that we want to get a situation which will enable any change to be made in the future to be made with safety. You cannot introduce the possibility of changing your present rate and anything to do with your coinage at this moment until you have got the established Reserve Bank. That is the point I want to make. The danger to India must be apparent to anyone who follows what

would happen if it is once understood that a change can be made at any time and without any possible safeguard. As to the actual form of safeguard no doubt there are difficulties, but there is one that occurs to me just for the moment. I do not know that this would be sufficient, but it did occur to me in order to meet something that Sir Bhupendra Nath Mitra was saying—that no change should [illegible] of the Governor-General. I [illegible] n of having to refuse to give [illegible] olemnly discussed and passed [illegible] to begin with, any idea of [illegible] se rights which are upon him [illegible] utmost discretion.

I think if we first had to have the assent of the Governor-General, it would prevent the discussion and all the feeling that [wo]uld be engendered by it, and it would go a long way to mitigate it and would be designed solely in the interests of India.

I have only one other observation, and that is with reference [to] the balancing of the budget I had not in mind, of course, when [I] spoke of that, the fact that it may turn out that after a budget [ha]s been introduced it does not, for some cause or other, actually balance; I am speaking of a budget that is introduced, and my [ob]ject is to prevent unbalanced budgets coming before the House, [wi]th the result that the credit and stability of India would be [af]fected not only in India but elsewhere, for that would be reflected [of] course, in the position of loans here It is solely with that object [th]at I have referred to it.

That can be dealt with fairly easily, it seems to me, but it does [re]quire consideration I do not want to have recourse to extreme [st]eps for the purpose, but there must be some means of preventing a condition of that kind continuing in India. It is not the [m]ere fact that for one year a budget may not balance which is in [m]y mind, but a system of finance which may be undesirable. I [d]o not expect it will happen, but, as I have said before, we do not [k]now who will be in charge over there, and there must be some [m]eans of preserving the stability and the credit of India.

Sir Tej Bahadur Sapru I could not follow one part of Lord Reading's statement just now, and I should like to understand exactly what is meant Is his Lordship opposed to the previous assent of the Governor-General? Previous assent is only sought before a Bill is introduced I should have thought previous assent was suggested by your Lordship; before a Bill is introduced you want the previous assent of the Governor-General?

Lord Reading: Yes.

Sardar Ujjal Singh: I whole-heartedly associate myself with the chorus of tribute which has been rightly paid to Lord Reading for his great and statesman-like speech I believe it has had the effect of clearing away a great mist of suspicion and misunderstanding. I also appreciate that the safeguards suggested by Lord Reading are intended to ensure the success of the constit[illegible]

the powers of the Legislature, or upon the freedom of the Minister in charge. I hold, Sir, that there is sufficient corrective, against any misuse of his power by the Minister in the Legislature, asserting itself against his mistakes, it may be in the course of three or four years. I would leave with the Legislature the power to correct any financial wrong-doing on the part of the Minister.

I hold, Sir, that in all these matters, there is a power of adjustment which we very often underrate; and, having seen the working of Indian Legislatures even under the old régime and with completely direct election, I am not hopeless that, trusted to the full, the Legislatures will exercise their power with sufficient care, vigilance and caution. I would, therefore, be unwilling to put into the hands of the Viceroy any special powers in matters of finance.

That leaves only one or two points of importance. I still hold the view very strongly—and I have not been converted, notwithstanding the weighty remarks of some of my colleagues on this Committee—that the Member in charge of reserved departments like Defence, should be selected from the ranks of the non-officials. I still hold the view, Sir, that it would go a long way towards creating a bridge between a technical and somewhat unpopular topic like the Army and non-official opinion, if the Viceroy was asked to select a non-official from amongst the members of the Legislative Assembly as his military member, working in complete co-operation with the Commander-in-Chief and the military machinery under him. I also share Sir Tej Bahadur Sapru's view that he should be a member of the cabinet with joint responsibility.

Coming to the question of the Princes' representatives taking part in voting on affairs which relate to purely British Indian questions, I am inclined to take the view that they should not take part in such voting because I believe that it is but right and fair that there should be complete reciprocity on a question of this importance. I am of opinion that the Princes' representatives in the Legislature should not take part in voting on questions which are purely of a British Indian character and non-federal.

Chairman: Yes, I see that.

Mr. Jayakar: And I believe that a right principle to adopt would be reciprocity, otherwise, and if we depart from that principle, it will create complications, some of which Sir Akbar Hydari is afraid of.

Coming to the vote of no confidence in the Government, or throwing out the Government, I should like to suspend my judgment until I see the complete picture, though my present view is that if the question relates to the throwing out of the entire Government it may be necessary to give to the representatives of the States a right to vote on the question. I am not clear in my mind yet, as to whether it would be by a two-thirds majority. I am at present against such a high figure as two-thirds, although I believe that a bare majority should not enable a Government to be pulled

down. I should like to have a little more time to think
question.

As regards paragraph 36 of your Report, Sir, I should
liked to go a little further than you have gone, but I am wi
as a compromise between two opposing views, to accept parag
36.

As regards the statutory authority in connection with the
ways, my opinion is against it, although I am willing that
Railway Board should be given a trial period of continuance
see how far it will act as a bridge between the Minister and t
States on the one hand, and the Minister and the public on th
other I am, however, opposed to giving a statutory basis to th
Railway Board or any more recognition than it has at the presen
moment I want freedom to be left to the future Minister of Rail-
ways to adjust the constitution, the powers and functions of the
Railway Board in any way which he thinks is suited to the require-
ments, and the changing requirements, of self-government in
India.

Only one question now remains—namely, the special powers of
he Governor-General as regards holding up legislation, which is
ouched in your paragraph 18

I shall have no objection, if those powers are brought into line,
h in their content and in their phraseology, with the powers
ch self-governing countries like Canada enjoy in this connec-
tion. I am against giving more power to the Viceroy than the
Governor-General or a person in a similar position in the constitu-
tions of the Dominions at present enjoys

This is all I have to say

Chairman I am very much obliged to you, Mr Jayakar, for
putting it so clearly.

Chairman · Mr. Gavin Jones, will you go on now?

Mr. Gavin Jones Lord Chancellor, I wish to associate myself
with what Lord Reading has said in reference to all the Delegates—
that our agreement to this Report is provisional and conditional.
I also wish to associate myself with what Sir Muhammad Shafi said
in regard to the protection of minorities The effective protection
of all minorities is essential before any responsibility is transferred
With regard to what Mr Jinnah has said, I was disappointed to
hear how pessimistic he is about the federation of All-India I
uite realise that there are very great difficulties, but in every
deration there have always been difficulties to overcome, and I
nt to say about India that those difficulties must be overcome if
ia is to progress. I would like to say that our community
ld be very strongly opposed to the transfer of any responsibility
Central Federal Government that did not include all India.
ring to the Report on page 22, paragraph 32, in regard to a
f censure on the Executive, I note that you have thro
on the efficacy of a joint session of both Ho

majority, to throw out the Executive. I do not remember that there has been any doubt thrown on that. I think perhaps when this was drafted, whoever drafted it was thinking on the lines of British parliamentary considerations, whereas in India the Legislature will divide into groups, and very much divided groups too; more like the French constitution, and I do not think there is any fear of the two-thirds majority being considered as creating difficulty between the two Houses. I would suggest that we should not throw any doubt on the efficacy of a two-thirds joint session being effective.

In regard to paragraph 16, where a statutory railway authority is suggested, I would suggest that ports should be added to this. I think amongst the British India Delegates there is some unnecessary doubt as to the efficacy of this proposal. It has been in force on the Continent, especially in Germany, with great benefit to the railways. If I may point out a simile, I think the position will be that the Legislature will take the position of shareholders in a company, and the Board will be the Directors. There is no question of removing the railways entirely from the Legislature, but it will mean that the Legislature will not be able to interfere in details of administration. In the Assembly in India now the number of petty questions that are asked on railway administration is really absurd and constitutes a great hindrance both to the Assembly and the efficient management of the railways.

In paragraph 19, in regard to the proposal to prevent discrimination against trade and commerce, I would like the word "industry" to be added to that, so that it would read: "trade, commerce and industry."

Chairman: If I may, will you let me be quite sure of that? I am not disagreeing. Are you saying that industry is the manufacture, and trade the distributing part of goods? That is the old English definition if you read it.

Mr. Gavin Jones: Yes, but the definition might be difficult.

Chairman: Yes: I quite agree it is better to put both in.

Mr. Gavin Jones: I mean that industry manufactures.

With regard to paragraph 23, there is a proposal that the Upper House should be indirectly elected by the Councils in the States by a single transferable vote. I do not think that matter has been discussed in this Committee; but we are opposed to that, because the single transferable vote is liable to a great deal of intrigue in a small body like that; and we would prefer separate electorates for that as well as under other conditions.

Mr. Sastri: From the Legislature?

Mr. Gavin Jones: From the Legislature. The different groups would elect the seats that are reserved for them in the Central Legislature.

In paragraphs 26, 27 and 28 emphasis is laid on the distribution of seats for the Lower House on a population basis. On this,

Sir, I would like to reserve my opinion, because India at the present moment is not ready to be represented on a population basis, and there are many matters which have to be taken into consideration besides that of population.

Paragraph 31, on the question of the representation of the Crown, ends like this "While others think that the Governor-General should be empowered to nominate a specific number of persons not exceeding say 10 to each chamber" We, Sir, consider that 10 to each chamber would be totally inadequate, and therefore I would ask that the words "not exceeding say 10 to each chamber" should be deleted.

I think that is all I have to say, Sir

Chairman I am so much obliged to you, Mr. Gavin Jones.

(The sub-Committee adjourned at 1-10 p m and resumed at 3-10 p m.)

Sardar Ujjal Singh I shall be very brief I am sorry I was not able to be present during the early part of the discussion this morning, and consequently I did not have the benefit of listening to some of the speakers I should like to say at the very outset, Sir, that I agree with the main principles of this Report. It has been very carefully drawn up, and it does justice to all the points of view which have been presented in this sub-Committee But, like other speakers, I would not like to dogmatize and to say that I entirely agree with it; until one sees the whole picture one cannot say definitely one way or the other, and consequently I would reserve my opinion until I see the whole constitution drafted in all its details.

I agree with Diwan Bahadur Ramaswami Mudaliyar that far from being its shortcoming the fact that this Report does not dogmatize on many problems and leaves many issues open for further expression of opinion in this country and in India is a merit of the Report.

With regard to the Hindu-Muslim question, personally I never thought that this Committee was a proper place for giving an expression of view on that problem, but, to the extent that this question has been brought forward in the discussion here, I would only say that no constitution can have that measure of success which is expected of it unless the minority interests are fairly protected, and, when the minorities feel satisfied, the constitution certainly stands a great chance of success in the country.

I would not say much about the Sikh minority here; I would only say that the Sikhs will review the whole scheme of this Federation in the light of the protection given to them in the future autonomous federated Province of the Punjab They do realise that, when the control of the Centre is removed or relaxed from the Provinces, their minority interests in the Punjab require satisfactory protection They will therefore reserve their judgment until the whole question is settled I am not without hope that by the

time the constitution is prepared in all its details this difficult question of the minorities will have been solved.

I fully realise the need for guarantees with regard to salaries, pensions and interest on loans, and the need for giving certain powers to the Viceroy with regard to future external loans; but with regard to other safeguards in financial matters I do not feel that the powers of the Legislature should be fettered to any extent. The sense of responsibility of the Legislature ought to be relied upon. I do not anticipate that there will be any great difficulty in establishing a Reserve Bank in India. In any case the Reserve Bank ought to be set up as early as conditions permit, and then the administration and the control of the currency would be entrusted to that Reserve Bank, but I still feel that questions of policy and legislation will be the affair of the Indian Legislature. The Reserve Bank will be entrusted with the management and control of the currency and exchange, but policy and legislation will even then be determined by the Indian Legislature.

With regard to a statutory authority being established for the railways, I feel that question was not discussed in detail in the sub-Committee, and I was rather astonished to find it given such great prominence in the Report. I do not exactly remember, but I think it was probably mentioned by His Highness of Bikaner, or some other speaker, that a statutory authority ought to be established so far as railway administration was concerned.

His Highness The Maharaja of Bikaner: I never used the words "statutory authority". I referred to the Railway Board exercising the functions it does now.

Sardar Ujjal Singh: I am of opinion that the Railway Board ought to be in charge of administration, as it now is, but no such statutory railway authority ought to be set up so that the Indian Legislature may not have that control which it now exercises over the railways.

I am in agreement with the idea that the Viceroy's powers ought to be fairly well defined, and that they ought to be limited to cases of emergency and any case of a break-down of the constitution. I feel that these powers should be not only of an executive character but also of a legislative character; he should be empowered to enact laws when he thinks it necessary in the discharge of his duties for safety and tranquillity in the last resort, or in the case of the break-down of the constitution or in a grave emergency.

With regard to defence and foreign affairs, I agree with Mr. Jayakar that all the matters under those heads cannot be taken away from the purview of the Legislature. I am thinking of such things as military education, the training of volunteers and many other things mentioned by him, and to which I also referred in my previous speech.

With regard to the appointment of a Member in charge of Defence, I would certainly like a non-official to be appointed.

I would press for Advisory Boards to be set up to deal with matters of defence, so that non-official Indians may have training in those matters.

In my opinion, Sir, the representatives of the States should not take part in purely British Indian matters, and that has been agreed to by Their Highnesses, but they will certainly participate in turning out a Ministry. I also realise that the stability of the Executive should be secured by some means or other—either by a two-thirds majority being required, or by some other device

With regard to the last paragraph of the Report, I should have thought that the question of the residuary powers ought to be clearly settled, and I would have liked the residuary powers to be vested in the Centre, but as para. 36 is drafted now, I would not press that point but would leave the matter where you have left it there.

Chairman. *Thank you very much*; *we are very much obliged to* you. I will make a note of that.

Sir Tej Bahadur Sapru: My Lord Chancellor, I speak as an optimist, and my optimism is born of the experience which we have acquired during the course of our work in this sub-Committee during the last few months When we remember the immensity of the task that we imposed upon ourselves, and the delicate nature of the issues arising out of this new conception of an All-India Federation, I think I am justified in saying that the points of contact and agreement among ourselves are far greater and far more numerous than the points of conflict or disagreement.

Those of us who started on this mission from India came with a determination that we must work for and try to achieve responsibility at the Centre. As your Report shows, the position now is that we are going to achieve that responsibility at the Centre. Many of us when we started from India probably had not thought of this idea of an All-India Federation because, although there were hints dropped to that effect from time to time, yet the idea had not taken a material shape; it was only here that the idea took a material shape.

From the moment that it took material shape we began to work towards that, and to explore avenues of approach towards that idea. In judging of this constitution I think we have got to bear in mind that it is a constitution which does not deal exclusively with British India, but which deals with British India and the Indian States, and in that respect it is unprecedented and unparalleled. Well, My Lord, what has been the response to that idea from the Indian Princes? I hope I am not putting it unduly high when I do say that so far as the idea of an All-India Federation with responsibility at the Centre is concerned, the Princes have been qu[illegible] on this si[illegible] of agree-m[illegible] on this side, and that is again the point of agreement between us and the

British Delegations, at any rate so far as one section of the British Delegations is concerned.

My Lord, the outstanding feature of the report which is before us is that you unhesitatingly bring out the unanimity with regard to responsibility at the Centre. It is true that every one of us has been keen and is keen that British India should get responsibility at the Centre, but this idea of an All-India Federation to which the Indian States come in has only tended to facilitate and to expedite the fruition of that idea. It is for that reason that I attach the greatest importance to that. I wish to say positively that I am not less keen than anybody else that British India should get responsibility at the Centre, but I wish to attach an equal importance to the bigger and larger ideas of responsibility at the Centre in the framework of an All-India Federation.

Now, My Lord, there are certain features of the Report to which attention has been invited this morning. There have been a number of reservations which have been made, and which have been expressed by certain of our colleagues in regard especially to that part of the Report which deals with safeguards. As we know the Report is already a fairly large one, and, if I am not mistaken, the Report as it is does not purport to be an exhaustive one.

You leave plenty of scope for further suggestions, for further discussion, for further elucidation of some obscure ideas both in England and in India, and I agree with my friend, Diwan Bahadur Ramaswami Mudaliyar, in holding that that is rather a meritorious feature of the Report, for we cannot reasonably shut out opinion in India which has not been represented at this Conference, and if there is something which that opinion can contribute to the building up of this constitution I am sure the British Delegations and we will equally welcome it. That is a feature of the Report which very strongly commends itself to me.

Now, coming back again to the reservations which have been made this morning, I wonder whether it is possible to safeguard—I am using the word which we have been using so frequently—to safeguard the position of those gentlemen by adopting some convenient method, so that while the points of difference may be mentioned or may be referred to, the points of agreement may be equally strongly emphasised. I do not know whether it is possible to evolve some formula of that character, but I have been thinking, during the time that I have been hearing the speeches of various friends of mine, whether in the interests of the constitution which we have been considering it would not be desirable to adopt some convenient method of dealing with that question.

Chairman: Sir Tej, I am so very much obliged to you for raising that question, because I am sure of this—first, that everybody wants this Conference to succeed if possible; it will be a disaster to India if it does not succeed; and secondly, I am sure that everybody sitting round this table desires to emphasise the points of agreement rather than the points of disagreement. With regard

to the points of agreement, so much the better—the more they are the better. With regard to the points of disagreement, time and patience and goodwill and statesmanship will go far to settle them, and therefore I have been considering very carefully what Sir Tej has just said, and he is allowing me to intervene now because it would not be possible to print at the end of this report all the admirable speeches which have been made this morning. I have been doing a little calculation. I am pretty bad at arithmetic, but so far as I can make out now, if we were to put at the end of the Report the remarks that have been made this morning, the remarks already made come to three-and-half times as long as the report, and as there will be a few more remarks I am afraid the remarks would swallow up and cloud the report.

Now, as Sir Tej has invited me, it is one of the duties of a Chairman, a duty at which I am afraid I am not very good, to try and devise a formula which will save everybody's opinion and [illegible] while at the same time empha- [illegible] venture to suggest something [illegible] me your attention. I should like to put in at the very beginning of the Report—would you just turn to the beginning for a moment—on page 2, where it says at the top of the page, "In addition, Sir B. N. Mitra attended most of the meetings of the sub-Committee and gave it the benefit of his advice and assistance", something like this. I propose, subject to your consent and to any suggestion which your wisdom may contribute towards it, to insert as the second paragraph a new paragraph to the following effect, which of course will govern the whole of the report: "It must be clearly understood that, although agreement has been reached by the Committee on many important matters, such agreement is only provisional, and every member, following the example of Lord Reading who said that the understanding upon which we have proceeded from the outset of this Conference is that it would be open to all members of it when they come to consider the completed proposals for the Federal constitution, to modify or change any provisional assent they may have hitherto given—therefore reserves to himself the right of modifying his opinion before the final picture is completed. This is the attitude of British and Indian Members alike. Over and above that, with regard to the basic assumptions in paragraph [illegible], Lord Peel and Sir Samuel Hoare desire to say that with the information at their disposal, and with so many questions still undecided, they are not convinced that the kind of executive envisaged in this part of the report can be successfully adapted to the special conditions of All-India Federation. [illegible] explored [illegible] Government that are [illegible] founded upon British [illegible] satisfied that the [illegible] obligations [illegible] the financial [illegible] cial classes and [illegible]

however, to place on record their appreciation of the progress which has been made in the elucidation of a contentious and difficult problem and their readiness to co-operate with sympathetic and unprejudiced minds in its further investigation.

Upon the question of finance, on the contrary, Indian opinion was that even the safeguards set out in the report went too far. The vexed Hindu-Muslim question was introduced by Sir Muhammad Shafi, who made it clear that as far as he was concerned he could not consent finally to frame any constitution unless the Hindu-Muslim question was settled. To this view, Mr. Jinnah gave his adherence on the ground that no constitution would work unless it embodied provisions which gave a sense of security to the Mussalmans and other minorities. He further objected to some details of the Report.

Other Delegates again re-stated the fact that their final opinion on details was not yet made, and that they desired before they came to a conclusion to ascertain public opinion upon these both in India and in England.

The committee publish the report subject to these reservations."

Does that rather meet with general consent?

Sir Samuel Hoare: Yes, the only point I am doubtful about is that you say at the beginning that agreement has been reached upon many important points. Now my impression this morning was that agreement had been reached upon very little. If you take the important points, the point first of all of responsibility at the Centre, and secondly the other big important point of safeguards, it seemed to me there was a singular want of agreement. I should have thought that pre-eminently those were the two bases of the report, and it is going a long way to say general agreement has been reached upon them.

Chairman: I did not say general agreement; I said agreement had been reached by the Committee.

Sir Samuel Hoare: That is rather stronger still, is it not?

Chairman: If you like; shall I put in a reservation for you and Lord Peel there? I put out specially what you say with regard to the basic thing; I am perfectly willing to put it in. Let me read it again: "It must be clearly understood that although agreement has been reached by the Committee on many important matters, such agreement is only provisional, and over and above that, the basic assumption in paragraph 5, Lord Peel and Sir Samuel Hoare say this—" and I am putting in the whole of that [w]itten statement of yours—the whole of it.

Sir Samuel Hoare: Yes, but, after all, if we are going to have a report, it had better be accurate. How far is it accurate to say that agreement has been reached on many important points, after this morning's discussion?

Chairman: I think on many important points a number of people have agreed.

Sir Samuel Hoare: On the two great questions, responsibility at the Centre and safeguards, there seems to have been none.

Chairman: No, I rather disagree with that. I know you do not agree.

Sir Samuel Hoare: Well, take your chance with the speeches which have been made this morning; what surprised me was the general departure—

Chairman. Then shall I put in this, Sir Samuel Hoare? "It must be clearly understood that though agreement has been reached by a majority of the Committee—"

Sir Samuel Hoare: Yes, I agree to that.

Mr Gavin Jones I should like to say I would have some mention made of what I said about the Crown representation.

Chairman I am afraid I cannot put any exceptions in except that. I cannot have so many objections to details.

Sir Akbar Hydari: There is one very important feature; that is in regard to the British-Indian Central subjects, in which there was practically unanimity on all sides, that Indian States cannot come in.

Lord Reading: You must not say on all sides.

Chairman. You must not say on all sides.

Lord Reading: It is not my view.

Sir Akbar Hydari No, but this is a point where we are all—I mean even the Indian States have definitely said that they do not want to have any voice in British-Indian Central subjects.

Chairman When it comes to that part you shall put in an express reservation

Sir Muhammad Shafi As regards the portion which concerns me, in the way you have put it, it reads as if it was a personal note of mine You will remember that I said that whatever I said, I distinctly said it on behalf of the Muslim Delegation.

Chairman Very well, certainly. Let me put it: "The vexed Hindu-Muslim question was introduced by Sir Muhammad Shafi at the request of the Muslim Delegation . . ."

Sir M. Shafi "On behalf of the Muslim Delegation."

Chairman: Certainly, Sir Muhammad, "On behalf of the Muslim Delegation." I simply want to get the greatest measure of agreement. I do not want to be pessimistic. I do not say we have agreed on every point. Therefore, I have satisfied Sir Samuel Hoare now: "It must be clearly understood that although agreement has been reached by a majority of the Committee on many important points."

Mr. Jinnah: On certain points.

Chairman. "On many important matters."

Lord Reading: Surely that is right.

Chairman: Hands up for "many important matters". (*There was a show of hands.*) Very well. Now I put that in for you: "Sir Muhammad Shafi on behalf of the Muslim Delegation." I am much obliged. Is it right to say: "To this view Mr. Jinnah gave his consent"?

Mr. Jinnah: With those words you put in.

Chairman: Yes, I have put them in; that is right. But after all I am rather speaking without my host; what do you think about that, Sir Tej?

Sir Tej Bahadur Sapru: I should like to read the formula that you have just now read once again before I express myself. Perhaps you would allow me to read it at the end of my speech.

Chairman: Very well; have a look at it.

Sir Tej Bahadur Sapru: "It must be clearly understood that although agreement has been reached by a majority of the committee on many important matters, such agreement is only provisional, and every member, following the example of Lord Reading, therefore reserves to himself the right of modifying his opinion before the final picture is completed. This is the attitude of British and Indian members alike. Over and above that, with regard to the basic assumption in paragraph 5, Lord Peel and Sir Samuel Hoare desire to say as follows".

Chairman: Then I have read out their bit which I have marked "B".

Sir Tej Bahadur Sapru: "Upon the question of finance, on the contrary Indian opinion was that even the safeguards set out in the report went too far. The vexed Hindu-Muslim question was introduced by Sir Muhammad Shafi on behalf of the Muslim Delegation, who made it clear that as far as he was concerned he could not consent finally to frame any constitution unless the Hindu-Muslim question was settled. To this view Mr. Jinnah gave his adherence on the ground that no constitution would work unless it embodied provisions which gave a sense of security to the Mussalmans and other minorities. He further objected to some details of the report. Other Delegates again re-stated the fact that their final opinion upon details was not yet made, and that they desire before they came to a conclusion to ascertain public opinion upon this both in India and in England. The committee publish the report subject to these reservations".

Mr. Jinnah: There is one thing. I do not agree to the safeguards. It is suggested so far as finance is concerned that except as to securing the loan—

Chairman: I have covered that by saying you think the safeguards in the report went too far.

Mr. Jinnah: I did not catch that.

Chairman: Yes. I have said that: I will read it again: "On the question of finance Indian opinion was that even the safeguards set out in the report went too far". I cannot accept more than

that, Mr. Jinnah; that covers your point and I cannot have details put in. That really covers it. Now, Sir Tej, please.

Mr. Jinnah. One moment, Sir, I do not think that is enough. I would like to make it quite clear that I do not agree to the safeguards except the liabilities.

Chairman: Well, I will put it in. Would you like to put in something stronger with regard to your attitude?

Mr. Jinnah No, that is enough, if you put that.

Chairman That is enough? I will read it to you again. "Upon the question of Finance, Indian opinion was that even the safeguards set out in the Report went too far."

Mr Jinnah I do not say they go too far; I do not accept them.

Chairman But is not that language sufficient for you, Mr. Jinnah?

Mr. Jinnah: I simply want this one sentence, that I do not accept the financial safeguards embodied in the Report except the liabilities to be secured.

Chairman Shall I say this: "Upon the question of Finance, Indian opinion was that even the safeguards set out in the Report went too far, and Mr. Jinnah ....."

Mr. Jinnah. "Mr. Jinnah will not agree with the proposed safeguards except as to the liability. ..."

Chairman· Let us end it at the word "safeguards"; do not let us have too much.

Mr. Jinnah. Pensions and other liabilities should be secured.

Chairman: Let me press you to be good enough to be content with saying "Upon the question of Finance, Indian opinion was that even the safeguards set out in the Report went too far". You know, Mr. Jinnah, that really does cover you, and you are always able to say that, after all, you did not agree with those things, they went too far Try and accommodate yourself a little to us; I am sure you will.

Mr Jinnah Will you say that I do not accept them at present?

Chairman That will appear in your speech. Do you want me to put it in the Report?

Mr. Jinnah· I think it ought to be there; I want to make my position here quite clear.

Chairman: Shall I say "Mr. Jinnah further objected to some details of the Report, especially.. .." Especially what?

Mr. Jinnah: The safeguards

Chairman: "Especially the safeguards"—yes?

Mr. Jinnah· "By way of special powers to the Governor-General"

Chairman· We will put that in Thank you, Mr. Jinnah.

Mr. Gavin Jones: Lord Chancellor, since you do not want to say anything about Crown representation, would anybody have any objection to deleting these last words "not exceeding, say, ten to each Chamber"?

Chairman: What page is that?

Mr. Gavin Jones: That is page 21, Sir.

Lord Lothian: Surely you are not going to start altering the Report now?

Chairman: Unless that is a unanimous suggestion, I hope Mr. Gavin Jones will not press it. This is only provisional, you know.

Mr. Gavin Jones: It rather prejudices it to have that in, Sir, and no figure has been mentioned.

Chairman: What do you think about that, Sir Tej?

Sir Tej Bahadur Sapru: I think that is all right.

Mr. Gavin Jones: There is one more thing. I suppose nobody would have any objection to adding ports to railways?

His Highness The Maharaja of Bikaner: What is the exact meaning of adding ports to railways? I would like to understand it on behalf of the States.

Chairman: Mr. Gavin Jones has made the statement that he supposes no one would have any objection to adding ports, and there the statement stands. I call on Sir Tej Bahadur Sapru.

Mr. Jayakar: As long as this statement stood as it was, to the effect that as regards Finance the view of the British Indian representatives was that the safeguards mentioned in the Report went too far, from my point of view I regarded that as quite adequate to protect my position, but if you are now going to add the individual name of one member, and the fact that he objects to the special powers of the Governor-General, I am placed in a position of some difficulty, because that is the view not only of Mr. Jinnah but of one or two of us on this side, and there will be a contrast between the remark that we thought the safeguards mentioned went too far and the statement that Mr. Jinnah takes this objection. I have already in my speeches shown that I do not want any special powers in matters of finance to be in the hands of the Governor-General.

Chairman: Now, Mr. Jinnah, that is an appeal to you. Will you not help us?

Mr. Jinnah: If the other members think as I do they should join me.

Chairman: Just think of India. We are trying to do the best we can and to get the greatest measure of agreement. and although I quite see your point. and although I am not at all sure that if I were sitting in your place I should not be—if I may use the expression—just as troublesome as you are, will you not help us now?

Mr. Jinnah: This is a point to which I attach very great importance.

Mr. Jayakar You are saying that the British Indian representatives thought the provisions contained in the Report with regard to financial safeguards went too far. I suggest that you add "especially with reference to the special powers in the hands of the Governor-General".

Chairman Would that meet you, Mr Jinnah? It is exactly what you say, only your name is not attached to it.

Mr Jinnah I do not want my name at all, my name can be obliterated at once Let Mr Jayakar's name be put in; say that Mr. Jayakar says that and that Mr Jinnah agrees with him.

Chairman What I should like to do is this I will cut this matter short I am going to take the words you said, and that both of you agree on, and put them in without the name of either of you. I think that would be a good way of doing it.

His Highness The Maharaja of Bikaner · The proceedings will show any difference of opinion.

Chairman We will add "especially the safeguards by way of the special powers to the Governor-General" Thank you very much. All I know is this, that if we lived together another two months there would be no disagreement, we can always get over the disagreements We will say "especially the safeguards in the way of special powers to the Governor-General".

Sir Tej Bahadur Sapru I will not take up much of your time, but there are just a few observations which, with your permission, I will venture to make At the commencement of these proceedings this morning, Lord Reading made rather an important statement; it was to the effect that the basis of his agreement and that of his party was first of all that the idea of a federation of British India and the Indian States would be realised, and secondly that a solution would be found for the Hindu-Muhammadan controversy. Now, frankly, so far as the idea of the Indian Federation is concerned it seems to me to have been [illegible] throughout our discussions. Again I [illegible] I have no doubt whatever in my mind [illegible] proceedings by Their Highnesses [illegible] and that it will [illegible] require to be worked [illegible] give and [illegible] at all. [illegible]

[illegible]

the language of exaggeration about it. On the merits I am prepared to support the case of any party, and I have no doubt that there is a very large number of men outside this Conference, outside this room, who are genuinely anxious that this miserable dispute about seats here and seats there should receive a quietus for ever, and that we must settle down and get on to work harmoniously and in agreement with each other.

Now, My Lord, having dealt with these two conditions to which reference was made this morning by Lord Reading and Sir Muhammad Shafi, I shall proceed to deal with just a few other points, and then conclude. Unfortunately, during our discussions and during our political discussions both in India and in England in regard to the constitution of India we have got used to this word "safeguards" I wish Your Lordship or anyone else could suggest to me a better word than safeguards. It is really not a term of art, not a legal phrase, we use it merely because we cannot discover a better phrase to convey our idea. Now, it seems to me that the constitution that we are laying down at the present moment is based upon the recognition that there is going to be a period of transition, and I do not look upon these safeguards, or whatever you like to call them, as going to be a permanent feature of our constitution. I take it that it is understood, and clearly understood, on both sides, that whatever be the safeguards, either with regard to the powers of the Governor-General in respect of breakdown of the Government or a serious menace to peace and tranquillity or in respect of the finances, are going to be in the constitution during the period of transition and not a day longer. That I take to be the basis of the whole discussion.

Now, coming to the nature of these safeguards, I shall first of all deal with the safeguards to which exception has been taken—namely, the safeguards in regard to the complete breakdown of the machinery of government or in order to secure peace and tranquillity when trouble has arisen in more Provinces than one or in a very large area. Your Lordship will remember that in my speech on the last occasion I definitely said that I was opposed to the power which now vests in the Governor-General under Section 72 of the Government of India Act of making Ordinances.

The word "ordinance" has acquired a technical meaning in law, and we all know what it does mean when we refer to it. What I did suggest on the last occasion, and I am unrepentant about my suggestion, is that instead of giving the Governor-General the very large and sweeping power of making ordinances, we should vest him with certain emergency powers to be used only under certain conditions and upon the happening of certain specified events. I will not travel over that ground again, but now arises the question as to whether that power shall be used by the Governor-General in his executive capacity or by making law.

My Lord, in speaking on this question I am reminded of a very famous judge, who, when he asked a [illegible] as to the [illegible]

in which a certain thing had been done by a certain magistrate and the counsel replied he did it in his executive capacity, replied: There is no such thing as executive capacity; all executive action under the British constitution must rest upon some law. Now I think it would be most unfortunate, and I have not the least hesitation in characterising the suggestion that the Viceroy should intervene by executive power as very retrogressive suggestion. I would much rather that the Statute frankly and openly recognised that upon the happening of those events the Viceroy might pass a law for a definite period which would expire automatically upon the termination of that period, in order to get over a temporary difficulty, rather than that he should exercise that overriding power over the Legislature by a mere arbitrary Act called an act in the exercise of the executive power. Neither as a lawyer nor as a public man am I prepared to support this executive power remaining in the hands of the Viceroy. I do not want to constitute him an irresponsible autocrat.

Your Lordship has in your report pointed out, and I think very rightly pointed out, that when the Viceroy is associated with a responsible Cabinet, and a situation like that arises, he will very probably take into his confidence the Ministry of the day; and until he finds that the Ministry of the day is obstinate, perverse, or that it is not capable of dealing with that situation, then, and then only, he may for a temporary period pass a law that will expire automatically upon the termination of that period. I am prepared to support that.

I will develop this point further. Supposing it so happened in a particular Province that no legislature can be formed or, a legislature having been formed, no members of that legislature are ready to take office. Then what is to happen? In a case like that the Viceroy must step in somehow or other. Similarly, it may happen that there may be controversy of such a large and such a comprehensive character that one single Province may not be able to deal with it. In that case, too, I expect the Viceroy by the exercise of that special power vested in him to intervene. I do not suggest anything more in that respect.

I pass on from the power of the Viceroy in regard to law and order to what are called the financial safeguards. And here Your Lordship will permit me to point out that there is one passage in your report which says—I am speaking from recollection—that the difficulties of establishing a Reserve Bank at the present moment are very great. I would ask Your Lordship to consider whether you would like to put it as emphatically as that, or as to whether you would not leave it at a suggestion that every attempt should be made to bring into existence the Reserve Bank as soon as possible; it may be before the new constitution comes into force, or simultaneously with the coming into force of the new constitution, so that India may acquire control of her exchange and currency policy. I understood that safeguard to mean nothing more than this, that until a Reserve Bank comes into existence, the

currency and the exchange policy shall not be altered without reference to the Viceroy. If that is so, then, speaking for myself, what I should do is to expedite the foundation of this Bank rather than to emphasise the difficulties in the establishment of it.

Lord Reading. There is nothing about difficulties; it says, as early as may be found possible

Sir Tej Bahadur Sapru: There is a passage to that effect which has struck me as being rather too emphatic. Coming then to the question of some control in regard to the budget, I put it to Lord Reading that he did not indicate in the course of his speech what sort of a control he expected the Viceroy to exercise. Well, whether it is the present bureaucratic form of government or whether it is a democratic form of government in future you may at any time expect a deficit, but if there is a series of deficits continuing over two or three years, I venture to think that that government will lose the confidence of the House and will not command the support either of the banks or of the investor. Therefore, the reference to that control of the budget in regard to deficits is to my mind extremely vague and it requires some consideration. I am open to conviction, but I strongly think you cannot vest in the Viceroy any practical power which he can use to prevent the deficit in any particular year

The only two other safeguards which have been suggested with regard to finance are with regard to external loans and internal loans So far as external loans are concerned, to the best of my ability I have examined the position in the light of certain statutes carefully, and I do not think that safeguard places India on any lower plane than that which any of the Dominions occupy.

As regards the internal loans, again there the so-called safeguard is extremely vague and indefinite, and we do not know exactly what is meant by those who want to impose the safeguard in regard to the internal loan Therefore, my objection is not that there is a safeguard provided, but my objection is that a so-called safeguard is so very vague and so very indefinite that it is impossible for us to form any opinion with regard to it I will say no more on these so-called safeguards

I will now come to two other matters. They relate to the constitution of the Legislature Your Lordship has left certain gaps there to be filled in later on by mutual adjustment and compromise and settlement between the British India representatives and the representatives of the Indian States I welcome that, because that is a matter which requires very serious consideration, and probably both of us will be better able to form our judgment when our work develops more, when we have a better idea as to the number of men who are coming in the Lower House, and the number of men who are coming in the Upper House, and the nature of the constituencies.

But it has been said that the constitution of the legislature is open to objection because the Indian States have been invited to

require their representatives to take part in purely British Indian affairs. If I understood the position of Their Highnesses, they themselves do not desire that their representatives shall take part in purely British Indian affairs. Therefore, as between them and us this is not a matter of controversy, and I can obviously see some disadvantages in their representatives taking part in our affairs, purely British Indian affairs. I can also see that there is a great deal of force in the objection raised by Sir Akbar Hydari in that connection and also by His Highness the Maharaja of Bikaner.

Then again it has been said that the Indian States' representatives should take no part whatsoever when a debate arises on a vote of no-confidence.

I very strongly differ from that view. While ordinarily in regard to day to day administration relating to British India alone the Indian States' Representatives may, and in my opinion should, refrain from taking part, the question of the expulsion of a Government from office is of a different character, when we remember that that Government is going to be a Federal Government. In the very existence of that Government both the Indian States and British India are concerned, for both are represented, and we cannot in the case of a federal constitution deprive one particular unit of the Federation of the right and the power of expressing its opinion as to whether the Government of the day should continue to exist or whether it should go out.

Again, some objection has been taken to the rule of minimum majority which I suggested. Now, My Lord, I will again say frankly that I am unrepentant with regard to that. If I want responsible government in my country, I want that responsible government to be a stable government and not a government which will go out every eight days or every month, and be replaced by another government. It does not hurt my pride as an Indian or as a public man to confess that I think it is very necessary in the interests of the country and in the interests of stable government that we should have some such safeguard, and that it should not be possible for the Legislature, by a bare majority of one, two or three, to turn out a government on a definite issue while it has been working all right in regard to other matters.

My Lord, what has been the practice, if I may respectfully say so, of your own party in the House of Commons. You have not decided to go out of office merely because a snap vote has gone against you. You make a difference between a major issue and a minor issue. But your constitution is based on tradition and convention, whereas in our case it seems to me it is very necessary that we should have a definite rule that no government shall be broken up by a bare majority. As regards the question of whether it should be a majority of two-thirds or anything less than that, in my last speech I said that was a matter open to argument, to discussion and to further consideration, and perhaps we should be better advised to arrive at that conclusion when we know exactly

how the Legislature is going to be constituted. I therefore stand by this suggestion of mine.

Lastly, I want to refer to the question of paramountcy Now, it is not a matter in which British Indians are directly interested—I maintain that very strongly—it is essentially a matter between Their Highnesses and the Crown. I do not think the establishment of this Federation is going to cut the tie that unites the India Princes in more ways than one with the Crown Now, the Crown exercises its powers, its paramountcy powers, through the Viceroy in India at present. What exactly will be the limit of paramountcy which will be exercised in future by the Viceroy will depend a great deal, to my mind, upon the entire constitution which may be evolved. There are many subjects which will pass into the Federal constitution. There will be the Supreme Court, which will play a very considerable part in deciding questions of controversy between one unit and another unit of the Federation, and it is obvious, therefore, that the question of paramountcy as it exists at present cannot exist in future; it will have to undergo material changes in regard to matters of that description I think *it is for the Princes* themselves to come to some settlement with the Crown.

It is perfectly true—I do not conceal the fact—that there is anxiety felt in British India, it is felt that there may have been cases of misrule and mis-government which might call for the intervention of the Paramount Power Now, Their Highnesses have not referred to this in the course of their speeches, but I do not think that it is beyond the power of statesmanship to devise a formula which will give satisfaction to those who hold that view and also to Their Highnesses It is for Their Highnesses to express an opinion on that matter, but merely because the question of paramountcy has not been reserved to the future responsible government I do not think we can afford to reject this constitution

Further, I beg you to remember that the question of paramountcy in relation to the Crown is one thing, and in relation to the Federation is quite a different thing There can be no such thing under a federal constitution as one paramount unit of the Federation exercising paramountcy over another unit of the Federation Their basis of federation is equality, and therefore special provision will have to be made constitutionally so far as paramountcy is concerned. With all respect to those who hold the view to which I have referred, I think that view rests on a misapprehension of the whole doctrine of federation.

Now, My Lord, *I have dealt with all these points, and finally* I will venture to express the hope that the spirit of co-operation and good will and the desire that there has been in this sub-Committee to explore all the avenues of progress towards the end that we have in view will not be wasted; the spirit has been so excellent that it would be a pity if on minor points of difference we should show to the world that we are prepared to sacrifice such a splendid opportunity as has been placed before us I venture to think that

if we stand by this constitution we can improve it, and we can improve it to the satisfaction of every one in the country, but if we reject it I am afraid it will be many a long day before we get another chance like this.

Chairman: Thank you, Sir Tej. As this will probably be my last opportunity of doing so, I desire to thank you for and congratulate you upon your contribution to our deliberations.

The next speaker is Colonel Haksar.

Colonel Haksar: All these days I have refrained from speaking. I have foreborne from intervening in the debate even though there have been occasions when I might have drawn attention to the fact that a particular matter which was thought to be of no concern to the States did in fact affect them. I forebore because I felt that on the whole things were moving in the right direction. To-day I feel it a solemn duty to express my own sentiments.

As regards the report which you, Lord Chancellor, have drawn up, criticism has been offered on its provisions, its suggestions and its implications, even though the understanding has existed from the commencement of our proceedings that our assent is provisional and conditional. I ask, what have we endeavoured to do in this sub-Committee and what does the report purport to declare? We have tried to explore the field of an extensive problem, and the report is an attempt merely to state what possibilities we have envisaged of the solution of that problem. In the first place, Lord Chancellor, I maintain that the report does no more than faithfully state what was to be gathered from the expressions of opinion here.

Chairman: It was meant to, yes.

Colonel Haksar: Though you have written it, you have not imported into the report any prepossessions or prejudices—assuming that your judicial mind could be subject to such infection. What is more, the report states only that general attitude of our collective mind towards the various points with which it deals which was discernible or made explicit at the stage when each of those points was discussed. It suggests for the acceptance of our deliberate judgment provisions in the future constitution which are likely to render satisfaction to the majority of the interests in India. These being the characteristics of your report, I submit that it should be adopted without alteration. I say this because it deals with a Federal constitution, and I maintain that on the subject of Federation, there is in this Committee the greatest measure of common agreement. (Hear, hear.) It is based on the conception of creating a united India which has been everyone's dream for years and its central theme is the transfer of responsibility for day-to-day government to the people of the country. If we make the attainment of either of these desiderata impossible or even difficult, what shall we have to look forward to? I say we may take it for granted that our failure here will lead to the continuance of a struggle which may not be carried on from day to day by such persons of mature judgment and wisdom as are present here round this table,

but by people whose minds are liable to be easily swayed and inflamed. The prospect of the unity of the country will recede into the background, and it will remain divided for a long time. It is for these reasons, Sir, that I venture to say that the report should be adopted.

In conclusion, Lord Chancellor, as duty called me away yesterday and as I was unable to be present in the afternoon session of this Committee, may I take this opportunity of paying my personal and humble tribute to you, Sir, for the manner in which you have conducted our deliberations and for your great patience and courtesy.

Chairman: Thank you. I am very much obliged to you, Colonel Haksar, not only for what you have said, but for your very kind references to me.

Sir Mirza Ismail: Lord Chancellor, I only wish to make a few *general* remarks with reference to certain observations which have been made to-day on the Hindu-Muslim question, in the satisfactory settlement of which I may say that we too are interested, and more especially with reference to the idea of an All-India Federation, which really forms the basis of the entire report which we are considering to-day.

As regards the communal question, I am one of those pessimists who entertained no great hopes that this would be settled by the communities themselves I said so in a public speech before I came to England, and I say it still. I will make bold to say that in my judgment the only course left to the British Government is to proceed on the recommendations made on the subject in the Despatch of the Government of India It is quite possible that some modifications might have to be made on those proposals in the light of suggestions that might be received hereafter, but I anticipate that they will, in the main, remain as they are

As regards the question of an All-India Federation, I thought that this Committee, at any rate, entertained no doubts whatever in the matter I thought that we were all strongly of the view that the only hope for the future of our country lay in the closest possible association, politically and economically between the States and British India I agree with Mr Jayakar, Diwan Bahadur Ramaswami Mudaliyar and Sir Tej Bahadur Sapru about the supreme importance and necessity of an All-India Federation. Mr. Jinnah entertains doubts, and Mr. Sastri seems to be assailed by similar doubts, though not, perhaps, in the same degree as to the feasibility of devising a workable constitution for India under this system. Difficulties there are, but have they sufficiently considered what the alternative would be to an All-India Federal constitution? Would it be possible, under any other arrangement, to make the Government of India a really responsible Government? Would it [illegible]

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the inevitable consequences of such an arrangement, and shall only add that it was purely out of a patriotic desire to secure the greatness and prosperity of India, their common Motherland, as a whole, that the States agreed to join a Federation.

While I appreciate the wisdom of leaving details to be filled in in consultation with all shades of public opinion, I believe that there are certain *lacunæ* which it is possible, and indeed desirable, should be filled in at once. For example, the question of the proportion which the number of representatives of the States should bear to those of British India in both Chambers of the Legislature might with advantage have been settled here. I think that a representation of 40 per cent. in the Upper House and of $33\frac{1}{3}$ per cent. in the Lower House would be equitable and likely to satisfy all reasonable demands.

I want to say just a few words more with reference to paragraph 35 of the Report. I feel that what India wants is a political machinery which alone, in view of the changing constitutional status of the Government of India in relation to the Imperial Government, can lead to a position of stable equilibrium. A Federation—I mean an All-Indian Federation of a composite type such as the Report suggests—seems to offer the best solution of the problem. So far as the States are concerned, the Federation must be, as recommended in the Report, an organic unit, and not so loose in structure as the League of Nations, and at the same time it must not be a centralising or unitary Federation.

As regards British India, I believe in a centralising Federation, though not a unitary Government, in the first instance for the British Indian Provinces—that is a Federation in which the Provincial sphere is definitely circumscribed by the enumeration of local matters, and which leaves a measure of residuary jurisdiction to the Central Government. This is what I would desire at the outset, though I would move later on to a gradual decentralisation from the central to the provincial and from the latter to local self-government.

It only remains for me, Lord Chancellor, to congratulate you, if I may, on the very clear and admirable report which you have placed before us, and the fair and accurate manner in which individual differences of opinion have been noted down.

Chairman: Thank you, very much, Sir Mirza.

Sir Akbar Hydari: My Lord Chancellor, I want to begin by associating myself with the tributes which have been paid by more than one member of this House to the impartial way in which you have conducted the proceedings of this most important Committee and the absolutely impartial manner in which you have represented the differences of view expressed here in your report. If I may return the compliment from my own literature, you have been like the Nowsherwan or the Asaph or the Birbal of Persian history and Eastern literature.

Chairman: Thank you, very much.

Sir Akbar Hydari: I want to state first that I agree entirely with Lord Reading in the points which he emphasised this morning. Secondly, I wish to declare and make it clear that I cannot speak for Hyderabad in the same sense as His Highness of Bikaner can speak for his State The final decision must be made by His Exalted Highness The Nizam when he has seen the whole picture and has taken in every detail and its implications. I can only say that my instructions do permit me to enter into negotiations for the participation of Hyderabad in a Federal Government.

I shall try to carry out those instructions to the best of my ability, helped, as I have been, by my able advisers. I cannot give the final answer of His Exalted Highness, but I *do undertake to* recommend the acceptance of a constitution on the lines of our Committee's report if amended in two features which I consider of fundamental importance, and which I shall very briefly explain In other respects of less fundamental importance it may not satisfy me, and I still entertain hopes that some modifications may be made in those respects, but I realise that one cannot expect perfection and that one must make allowances for others

These two features of fundamental importance are, in the first place, what I would call the British India Central subjects of which the Report desires that the Federal Legislature and Executive should be seized.

I may refer to the general language and the tone of paragraphs 33, 35 and 36, and certain references in paragraphs 13 and 19 to which I should like to invite special attention I will not take up your time over them

Chairman: Please go on

Sir Akbar Hydari I cannot take up time in reading out the exact portions and I will not do so unless you desire me to But the whole trend of it fails to emphasise the fact that Indian States' representatives, whether it is my friend Sir Mirza Ismail or our respected Chief, His Highness of Bikaner, have made it absolutely clear that they will have no voice or part in the discussion or the decision of any subject of British India I can quote from their speeches if you desire; I can give you references to the pages, but I will not do so That being so, I would like, My Lord Chancellor, this unanimity of our States on this side to be incorporated in that introductory paragraph which you read out.

Chairman: Yes; we will do it now, certainly.

Sir Akbar Hydari: I would like to say, with regard to what Mr. Jinnah has said this morning, that in the same ways as he objects to us, so do we object to our being dragged into the controversies of British India. If they have a federation of British India and they give Indian States sufficient safeguards, we shall not object; but only remember what is the implication of this position It will be the spitting up of India into two Indias We have come in in order to help you to obtain what you want, namely, responsibility in the Centre. It is in this spirit that we have come, and in

this spirit we have tried to come as far as we possibly can to the federal idea.

Again, I have got my material, but I do not want to take up your time by saying how impossible it would be to administer even a subject like railways without its being federalised. Therefore, with regard to this My Lord Chancellor, I think you have got unanimity on this side; you have got unanimity on that side, and I think it is desirable that the report should state definitely that both these sides are agreed that Central subjects should not be within the purview of the Federal House.

As regards the question whether the Federal Executive should go out, how it should be put out of action, by what kind of vote, I should like to draw attention to what Sir Tej Bahadur Sapru said, that it is not desirable that the Executive should be put out on matters of day to day administration on an ordinary British-Indian subject. But does he realise the implication of the position that the Federal Executive should not be put out of action except by the federal vote on a British-Indian subject when it is important? Because it at once begins to bring in the Indian States in a controversy of a burning character which affects British India alone. My own solution was that if the people who are dissatisfied with the Federal Executive with regard to any action that they may have taken, are to be in a position to put out the Federal Executive, then it should come before the Federal Legislature; but if they are dissatisfied on account of any action on a Central subject, and they make a requisition with regard to that, it should be discussed only in the Central House, and only the Central Member should be put out.

This is one feature to which I beg of you to pay every attention, because this we consider to be of fundamental importance, cutting at the very root of the principle of federation; that federation extends to subjects to which the federating units have definitely committed themselves and in which alone they have a voice, and to no other subjects whether by implication or directly.

Chairman: I gather that the sentence that we should put in to satisfy you, Sir Akbar, would be this: "The States do not desire either to discuss or vote upon questions which concern British India alone." That is right, is not it?

Sir Akbar Hydari: Yes, and these subjects should be definitely laid down.

Chairman: And these subjects should be definitely set out.

Sir Samuel Hoare: Are you speaking for all the States, Sir Akbar.

Sir Akbar Hydari: Because they have all said so, yes.

Sir Samuel Hoare: I see.

Chairman: Yes, I put that in. Thank you.

Sir Akbar Hydari: The second feature is about paramountcy; Sir Tej Bahadur Sapru has, with his usual statesmanship, recog-

a great deal of our fears in that regard; but not entirely. like to refer, in the first place, to paragraph 8 of your which you say: "During a period of transition,

(i) The Governor-General shall be responsible for and External Relations (including relations with the States outside the federal sphere)."

My first point is that so far as paramountcy is conce cannot conceive of any period of transition after which it come within the scope of the Federal Government, and I that that is the position also of the others on this side. Als Sastri has said that there are only certain aspects of paramo with the Crown, he says it would be inexpedient and dangero take away from the Government of India that part of paramou which allows it to interfere in the case of gross mis-government misrule.

Mr. Sastri I beg your pardon; I should have said the Fede Government of the future, instead of the words "Government India." They reproduce the existing condition of things, but are contemplating a Federal Government I should have sa "Federal Government"

Sir Akbar Hydari Very well. I beg to submit that the existing condition of things is with a Government of India which is a unitary Government and is a Government not responsible to the Legislature. It is the Government of the Governor-General in Council I think all the States are agreed that cases of gross misgovernment or misrule cannot be dealt with by the Federal Government of the future, but by the Viceroy That is the second point of fundamental importance which I think should be brought out as such in any way that you, My Lord Chancellor, may think best

Chairman Then I think the full sentence will read like this, Sir Akbar "The States do not desire either to discuss or vote upon questions which concern British India alone, and are of the opinion that these subjects should be definitely excluded. Neither do the States desire to submit any question of paramountcy to the Federal Legislature."

I will put that in, because that covers your point.

Sir Akbar Hydari: There is only one other thing on which, perhaps, Sir Tej might enlighten me He said with regard to the Viceroy's overriding powers that if the Ministry was obdurate then the Viceroy should intervene. If he meant the Provincial Ministry I am satisfied, but if he meant the Federal Ministry then it implies that Law and Order comes before the Federal Legislature and to that also, as I have said before, I take objection, because I consider that to be a British India subject.

I will now touch very briefly on the remaining points. There a point with regard to the Minister of Defence. There has been suggestion that he should be a non-official member chosen from ong the elected representatives. Mr. Jayakar said that, and rdar Ujjal Singh suggested that at the same time there should

be an advisory board. If there is to be an advisory board I think the educative functions and the liaison functions which were contemplated, and which were the only reason for having a Minister of Defence in the Federal Cabinet, disappear. There are other objections which I have previously taken, and I should like that to be definitely noted. The way in which it has been put down in the Report looks as if we were all agreed to a Minister of Defence but not to a Minister for Indian States.

Chairman: That is not meant. The general exception will cover that.

Sir Akbar Hydari: With regard to finance and safeguards, I may say that apparently there are two kinds of safeguards in view. There are those safeguards which are to apply during the period of transition. All I can say is, let them all be mentioned. They are of such a character as to inspire confidence, and all I can say is that if, as I hope, the future Government is of a responsible character, it will administer the subject in such a way that these safeguards will become atrophied by disuse. It all depends on ourselves whether we will allow those safeguards to be used or not, but they should be mentioned in order to create confidence. The other safeguards of a larger character cannot, I conceive, be only for a period of transition, because they apply in the case of a complete breakdown, and to ensure security and peace and tranquillity, and for that, I take it, the responsibility of the Viceroy remains as long as India has any connection with the British Crown.

Sir, I have done. I hope that we shall have an opportunity of seeing and discussing the completed picture after opinion in England and in India has expressed itself and we have been able to ascertain the attitude of the Indian States on the completed picture.

Chairman: Thank you very much, Sir Akbar.

Sir Akbar Hydari: For my part, despite the anomalies and difficulties, I pledge myself to recommend to the Nizam and his Government the federal constitution, which is compatible with the traditions, status, and the security of the dynasty and the premier position of the ruler I have the honour to represent. I rejoice at the degree of unanimity that has, I think, been reached, and I sincerely hope that in the end a structure will be raised that will stand the test of time and satisfy the feeling of national self-respect which is clamouring for expression in the government of my country.

H.H. The Maharaja of Bikaner: My Lord Chancellor, as has so often happened in regard to the many memorable and statesman-like speeches which my old friend Sir Tej Bahadur Sapru has made in this sub-Committee as well as in the Conference and on other occasions, he has referred to our deliberations in the terms and mood and with the outlook of an optimist, but in doing so he has given me a grievance against him, for he has taken the very words,

which, before he spoke, I had noted down to use in beginning my speech.

Sir, I am an optimist. I think if I was not an optimist I should have been dead long ago, and I do look upon our work of the past and our work that lies in the future from the standpoint and vision of an optimist I have as a ruler and also in the more difficult duties, perhaps, as Chancellor of the Chamber and as a soldier, been accustomed to face situations which have looked dark and gloomy. But we have gone straight along the path which duty and other considerations showed to us, and very often we have emerged successfully.

We have never minimised the great difficulties and the complexities of the problem which has faced us, but I do submit that if we calmly review what we have done, which is briefly embodied in what I may respectfully term this excellent Report, I think we are entitled to claim, and to rejoice over the fact, that we have really achieved a great measure of agreement There must in all such matters be disagreement, but really when you come to think of the difficulties and complexities it is a matter both of surprise and of congratulation that we have achieved such a measure of common agreement, and I have every hope that what we have done will go far towards a satisfactory settlement of the problem in the days to come.

There are, unfortunately, these very important problems and these very necessary safeguards in regard to minorities, and questions affecting the great Muslim and Hindu communities and others, which have to be carefully gone into; but I have a feeling that when we see the goal in sight and within the grasp of India, those responsible will respond in a manner worthy of the occasion and of India.

And now, Sir, before I proceed further may I take this opportunity once again of thanking our British Indian friends, and especially Sir Tej Bahadur Sapru and several other speakers, who have expressed their sympathy for and appreciation of the special position of the States in India and their anxieties and difficulties. With all due deference, I should like to address a special word of thanks to the graceful and fraternal compliments paid to us by Diwan Bahadur Mudaliyar, whom I have had the pleasure of meeting for the first time on this occasion, and who has made yet another excellent speech and has given expression to constructive and hopeful sentiments with which I find myself in agreement to a very large extent.

May I also say that the doubts and fears which some have expressed in regard to the States arise, perhaps, from a very natural cause, namely, that we on this side have not had the privilege of knowing several of our friends opposite as well as we should have liked, in spite of many of them being our friends, particularly because of the distance at which they are situated. They have not come into real contact yet with our States, and especially the more important States.

Now to-day I wish to wind up my observations as briefly as possible, and not to go into details or to deal with each paragraph and page or recommendation of the Report, or go over all the ground which we have already traversed during our discussions of the past few weeks. I first wish to say that the Princes and States are in real earnest. I feel confident of that fact; they are in real earnest and sincerely desirous of helping and of making their contribution, as true sons, to their own Motherland, and as faithful allies and loyal friends to the Empire; and whilst we realise that details have yet to be explored, and that in the circumstances and until the picture has been completed, our proposals may, and will necessarily be tentative to a large extent, and will be dependent on satisfactory terms and safeguards for the States both big and small, I personally have no doubt that if we pursue the course on which we have embarked we shall not only be glad finally to enter the Federation, but we shall be making a contribution to our country which will be worthy of the part which the States have always played in the history of India. When that picture is completed there will be time for us to suggest any modifications, but I would emphasise once again that we have no desire to block the progress of, or to dominate, British India. I will not touch upon that subject at length to-day, but will just refer to the fact that there are certain problems that specially require to be satisfactorily solved. I do not wish to revive the discussion, or to raise any controversial points, but first and foremost I would like to emphasise what I have already said in regard to the essential need of a financial and fiscal enquiry when other details are being considered. These matters will not only be necessary in connection with Federation, but in regard to the case and the claims of the States. Then there is the question of the number of members in the Federal Houses and their representation of the States—that is, their percentage of members in these two Houses. Sir Mirza Ismail has mentioned some figures—which I am sure he will agree give expression to his own personal views—that I have already placed before you. These relate to what we consider, on behalf of the States generally necessary as regards the numbers being larger, and as regards the percentage we want in the Upper and Lower Houses. In relation to the Lower House I wish to make clear again that whilst we are not asking for fifty-fifty, we do desire that the allocation of members should not merely be on the basis of population, but of area and population, and that some regard to a certain extent should be paid in the way of weightage to the importance and the special position of the States.

Then there is the question of the Supreme Court, which we consider, I think I may say, in common with our brothers of British India, as absolutely essential not only to Federation, but in the interests of the State. I will not deal with other safeguards, or what the majority in relation to a vote of "no confidence" should be—whether it is two-thirds or whatever it is—or any reservations or power of veto, or in regard to the Royal Prerogative.

Much has already been said about questions which concern the Princes and the States' and the Crown, such as those relating to paramountcy and allied matters. Whatever the future may have in store, and whatever the Princes and States may desire in years to come, when they have had practical experience of Federation, I have little doubt that it will be realised, on more mature consideration, that it is impossible for the States to accept any position of the subordination to British India or to the Government of India in regard to paramountcy and allied matters, for, as Sir Tej Bahadur also said, this is not only a matter between the States and the Crown, but it would be contrary to the very basis of Federation if it involved subordination and inequality between the Federal units. I will simply add in this connection that the matter is already under discussion with His Majesty's Government and the Viceroy.

Lord Reading I will only say with regard to that, if I may, that it is introducing some new matter which was touched on by Sir Tej Bahadur Sapru and then by His Highness of Bikaner. At least, I do not want to be taken as agreeing with the views that are being expressed I do not want to discuss them for the moment, but to reserve opinion on them.

H H The Maharaja of Bikaner: I will not touch on the question of the States having a voice in the purely domestic affairs of British India, because I have already made the position clear, and it has been made equally clear by other members from our side; but I think I should repeat that the States have no desire to interfere in the domestic affairs of British India, nor could we possibly agree to any discussion by British India or a Federal House of matters purely internal to the States

The question of the throwing out of the Federal Government is a totally different matter, and if the States come into a Federation and are in a Federal House, and have a share, as they are entitled to claim a reasonable share, in the Federal Executive, they must have a voice in the throwing out of a Government even though it may be an anomaly.

Finally, My Lord Chancellor, may I renew my thanks to you on behalf of all the States as well as of myself, and conclude with an appeal for greater trust and mutual confidence and co-operation and good will.

H. H. The Nawab of Bhopal: My Lord Chancellor, I think that so much has already been said that there is hardly anything more for me to add. I only wish, Sir, that it should be recorded that I entirely agree with what His Highness the Maharaja of Bikaner has said, and that I am in general agreement with the statement made this morning by Lord Reading. I understand that it will be open to all of us when the picture is represented in a complete form to alter or modify the opinions expressed by us in this Committee

Chairman · Yes

H.H. The Nawab of Bhopal: With these reservations I have no comments to make in respect of the Report.

Chairman: Thank you very much.

H.H. The Nawab of Bhopal: May I just add this. I am grieved to hear that Mr. Jinnah anticipates great difficulty in bringing a Federal constitution into being. I have no doubt that with good will, statesmanship and a desire to solve our difficulties Federation will soon come into existence.

I have just one more word to add in connection with Mr. Jinnah's remarks about our Customs, etc. We have never been thinking of our Customs or of the financial advantages that may or may not, as the result of Federation, accrue to us. We are also, in our humble way, greatly concerned with the welfare of our country, India, and it is only with this consideration in view that we have agreed to join an All-India Federation.

Sir, I have to add that I join with Mr. Sastri and others of my view in the expression of my grief that the communal question in British India has not been settled, and that it threatens to create a block in the way of India's political advance. I do hope that even at this last hour some formula will be forthcoming which will be satisfactory to all concerned, because really we cannot afford to leave the shores of England without making this Conference a success from the point of view of India.

Chairman: Thank you. Now what I will do is this. We will publish this Report and I will put in that important paragraph which states the views of those who desire to express them in the Report itself which I have already read, and which we have agreed upon.

I think that, Your Highnesses and Gentlemen, concludes our labours.

Mr. Jayakar: Before we disperse I desire that the following resolution be placed on the record of the proceedings of this Committee:—

"The members of the Federal Structure Committee place on record their high sense of appreciation of the great services rendered to the Conference by the Right Hon. Lord Sankey, Lord High Chancellor, whose wise guidance, broad-minded statesmanship, and fairness in dealing with the intricate problems which have engaged the attention of this Committee, have been of inestimable value.

This Committee also conveys its thanks to the experts and permanent officials, and to the staff of reporters for the great assistance they have rendered to the Committee."

I formally move this resolution.

H.H. The Nawab of Bhopal: Sir, I have the honour to support this resolution moved by Mr. Jayakar.

Mr. Sastri: Lord Chancellor, lest I should seem discourteous, I did not interfere while that resolution was being moved but I

desired to say a few words which would have been more appropriately said before that resolution was moved. Perhaps I may do so now?

Chairman · Yes, certainly.

Mr. Sastri I am in the most hearty agreement with what was said, and I hope you will not understand that any feeling of dissent from that is contained in what I am about to say.

Something that I said this morning seems to have caused concern. I am exceedingly anxious to be allowed an opportunity of putting that matter right if I may

First, with regard to paramountcy My mind has been working at hectic speed all this afternoon, and, as I am a person who wishes to be at least characterised by fidelity to himself, I will say just this We have provided, or we have attempted to provide, for cases of breakdown in British India, and for cases where the peace and tranquillity of India or any part of India should be affected. With those emergency and extraordinary arrangements I am in perfect accord, and if anything that I said showed that I was not in accord with them, that was wrong. I always was and am now in perfect accord with those arrangements.

Now the cases of misrule which we are contemplating in regard to Indian States are analogous to the circumstances of emergency and the disturbance to peace and tranquillity in the Provinces of British India. As we propose to endow the Governor-General with powers of interference in these matters, it is but right that he, as apart from the Government with which he is ordinarily associated, should have the power to interfere in cases of misrule in Indian States. That power now by common consent rests in the Viceroy It is only therefore a matter of difference of words, whether we use the word " Governor-General " in the one case, and the word " Viceroy " in the other. My case, therefore, for paramountcy is not quite so strong as I thought, and I am perfectly willing that the paramountcy should, as apparently the Princes desire, vest in the Crown as apart from either the Government of India or the Federal Government.

H.H. The Maharaja of Bikaner: I think that solves the problem as far as this Committee is concerned.

Mr. Sastri: Now, Sir, with regard to certain other observations that I made, I have also laid myself open to misconception, chiefly owing perhaps to the tone in which I spoke rather than to the words I actually employed. I am very anxious to remove that misconception, Lord Chancellor, because I am not an obstructionist I am a friend of this Conference. And permit me to say that I yield to absolutely none here in my desire that this Conference should reach a happy conclusion and save India from the chaos which would otherwise fall upon her. I listened very carefully to the speech which Sir Tej Bahadur Sapru made this afternoon. I agree with most of what he said, and I am wondering whether I did not at any time agree with most of what he said. I did agree

and do agree with most of what he said I agree in the case of these emergency powers and disturbance to peace and tranquillity. I agree with what he said with regard to the establishment of a Reserve Bank. I agreed and I agree with what he said as regards the proposed powers of interference to the Viceroy in the cases of budgetary irregularities and borrowing irregularities.

I do not see the necessity of those powers myself, and as Sir Tej Bahadur Sapru expressed himself in that sense I am in hearty agreement with him.

There remains almost nothing in my observations this morning which may be said to have cast a doubt upon my attitude towards this Conference, and if what I have said with regard to paramountcy removes a *misconception* there, then I think I have made my attitude perfectly clear and my *mind* is somewhat at rest, seeing that you have allowed me to make these remarks, although I may more than once at this Conference have appeared in the position of one who under stress of emotion changed his mind and was not slow to acknowledge it.

Chairman: Thank you, Mr. Sastri.

H.H. of Bikaner: I am sure on behalf of the States you will allow us to express our grateful appreciation of what has fallen from Sir Tej Bahadur Sapru and Mr. Sastri.

I claim the privilege of suggesting that that resolution which has been moved be now passed by this sub-Committee.

Chairman: Permit me to congratulate you first upon the result of your deliberations. It only remains for me to thank you for the resolution you have passed and for the kindness and the courtesy that you have shown to me personally. I must apologise for my many shortcomings and end by saying that although I have had an anxious and a difficult task I would not mind having it over again, provided that I had the help of the same committee.

(The proceedings then terminated.)

Sub-Committee No. 1. (Federal Structure.)

INTERIM REPORT PRESENTED AT THE MEETING OF THE COMMITTEE OF THE WHOLE CONFERENCE HELD ON 16TH DECEMBER, 1930.

Introductory.

1. The sub-Committee* was appointed to consider and report upon the following four of the Heads of discussion which were framed for the Federal Relations Committee:—

No. 1.—The component elements of the Federation.

No. 2.—The type of Federal Legislature and the number of Chambers of which it should consist.

No. 3.—The powers of the Federal Legislature.

No. 6.—The constitution, character, powers and responsibilities of the Federal Executive.

The sub-Committee thought that it would be for the convenience of the Conference to present an Interim Report dealing, in the first instance, with Nos. 1, 2 and 3 above. In view of the large issues raised by No. 6, which cannot be separated from those connected with the relation of the Federal Executive to the Crown (*No. 12 of the Heads of discussion*), it appeared to the sub-Committee that this Head, on the discussion of which they are proposing immediately to enter, should form the subject of a separate report.

2. The sub-Committee are in a position to report that a most encouraging degree of agreement on the matters comprised in Nos. 1, 2 and 3 has been secured. They recognise that *any measure* of Federation involves for the States sacrifices in a sphere to which they have always attached the greatest importance for practical reasons as well as on grounds of existing treaties and sentiment. They recognise, on the other hand, the natural hesitation of the representatives of British India to accept any *form of constitutional* change which might be thought to endanger the unity of British India or those positive advantages which are derived from a uniform body of law and administrative practice. All parties of the sub-Committee were unanimous in preferring the welfare of India as a whole to the individual claims of the interests they represent and in the conviction that only in the larger unity can the diversity of interests and policies be completely harmonised. The sub-Committee are not dismayed by the criticism which may perhaps be made upon their conclusions, that the links between some parts of the Federation and others are but slender. A new State is not born full grown; it must contain within itself the capacity for growth. The attainment of full maturity must depend upon the efforts and devotion of the statesmen of India herself from whatever territory they may come.

* The composition of the sub-Committee is given on page 273.

The sub-Committee's conclusions are as follows:—

CONCLUSIONS.

I. *Component elements of Federation.*

3. The component elements of the Federation should be on the one hand

(a) the federating Provinces of British India, and on the other hand,

(b) such Indian States or groups of States as may enter the Federation. Provision should be made for the subsequent entry from time to time of such further States or groups of States as agree to enter the Federation.

The important question of the position of the Crown will require further examination when the relation of the Federal Executive to the Crown is discussed.

4. So far as British India is concerned, the federating organism will be neither the Government of British India as it exists at present, nor autonomous Provinces released from the central tie. The process of Federation will involve the creation of a new State which will derive its powers

(a) in part from the powers which the States will agree to concede to the Crown, to be placed at the disposal of the new Federation; and

(b) in part from the transfer to it of such of the powers of the Central Indian Government (and also it may be of the Provincial Governments) as may be agreed to be necessary for the purposes of the Federation.

II. *Type of Federal Legislature and the number of Chambers of which it should consist.*

5. The Federal Legislature should consist of two Chambers, each containing representatives of both British India and the States (the proportion which the representatives of British India and of the States should bear to each other will be a matter for subsequent consideration under Heads not yet referred to the sub-Committee).

6. The method whereby the representatives of British India are to be chosen was not referred to this sub-Committee, but Their Highnesses made it clear that in their opinion the method by which the States' representatives should be chosen will be a matter for the States themselves. If and so long as there are any reserved subjects it will be necessary for the Crown to be represented in both Chambers.

7. Differences between the two Chambers might be determined either at a joint session or by other means, by vote, whether by a bare majority or otherwise being a question for discussion at a later stage.

III. *Powers of the Federal Legislature.*

8. A list of subjects provisionally recommended as Federal subjects is appended. This list is framed on the assumption that

the Federal Legislature will be clothed with power to legislate upon all the subjects included in it. The inclusion of certain subjects, *e.g.*, Defence and External Affairs, was not specifically considered, since these subjects in particular, though not exclusively, raise the question of the relations between the Executive in India and the Crown—a matter not within the sub-Committee's terms of reference. It is of the essence of a Federal constitution that the enactments of the Federal Legislature acting within its legal scope should have full force and effect throughout all units comprised in the Federation

9 Provision should be made by some constitutional procedure for additions from time to time to the list of Federal subjects.

10 In relation to Federal subjects a distinction is to be drawn between policy and legislation on the one hand and administration on the other. In some Federal systems there is a complete separation between Federal and State agency in the administrative as well as the legislative sphere, but in others the administration is entrusted, subject to certain Federal rights of inspection, *etc.*, to the State authorities The choice is a matter of convenience rather than of principle, depending upon conditions existing at the time of Federation and the practical advantage or disadvantage of disturbing the *status quo*. For a variety of reasons there are cases in which State may desire to retain, in those matters in which they agree that the control of policy shall be federal, most of the administrative powers which they exercise at present, but in so far as they continue to exercise those powers, they will do so in conformity with a policy jointly determined and with regulations jointly formulated. Provided that the conditions for a harmonious evolution are established, it is an advantage that there should be a minimum of disturbance in the practical arrangements which already operate.

11. The precise delimitation of the functions of the Federal and State Governments respectively in these spheres will be a matter for settlement in respect of each subject by negotiation

12. The sub-Committee are strongly of opinion that there should be only a single Legislature to deal with Federal subjects proper and [illegible] present be either federalized or cc[illegible] Legislature will no doubt cont.[illegible]e Federation which will not be concerned with some of the subjects with which it deals. But the partial acceptance of this anomaly is preferable to the difficulties and complications involved in any expedient for completely avoiding it, such as the creation of a separate British Indian Legislature with a separate Executive. How to deal with this anomaly will have to be considered at a later stage.

St. James's Palace,
London.
12th December, 1930.

APPENDIX TO INTERIM REPORT OF SUB-COMMITTEE No. 1.

Schedule of Subjects provisionally agreed to as "Federal" with notes.

N.B.—The enumeration is that of the present list of Central Subjects—Devolution Rules, Schedule I.

	Notes.
5. Communications to the extent described under the following Heads, namely:—	
(*a*) Railway (including railways to be constructed or acquired in future).	Policy and legislation to be Federal. Administration to be Federal to the extent of powers now exercised by the Railway Board.
(*b*) Aircraft and all matters connected therewith.	Federal.
(*c*) Inland waterways . .	Policy and legislation to be Federal in respect of inland waterways affecting more than one unit.
6. Shipping and navigation, including shipping and navigation on inland waterways in so far as declared to be a Federal subject in accordance with entry 5 (*c*).	Federal for legislation and policy.
7. Lighthouses (including their approaches), beacons, lightships and buoys.	Federal.
8. Port quarantine . . .	Federal so far as international requirements are concerned.
9. Ports	Such ports to be Federal as are declared to be major ports by rule made by Federal Government or by or under legislation by the Federal Legislature, subject in the case of Indian States to such extent as authority may be delegated by the States under a convention.
10. Posts, telegraphs, trunk telephones and wireless installations.	Federal; but with such qualifications as may be necessary for the purposes of adjustment with the States in matters of detail.
11. Customs and salt . . .	Salt: Federal. Maritime Customs: Federal, subject to special adjustments with Maritime States having regard to their treaties, agreements and engagements. Customs on external frontiers of Federal India to be Federal on the lines of maritime customs subject to the special case of Kashmir.
12. Currency and coinage . .	Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.
13. Public Debt of Federal India. (Power to raise Federal loans.)	Federal.
14 Savings banks	Federal for policy and legislation regarding Post Office Savings banks.

15 Federal Audit .	Federal
17 Commerce, including banking and insurance	Federal for policy and legislation.
18 Trading companies and other associations	Federal for policy and legislation
20 Development of Industries	Development of Industries to be a Federal *subject* in cases where such development by Federal authority is declared by order of Federal Government, made after negotiation with and consent of the federating units
21 Control of cultivation and manufacture of opium and sale of opium for export	Federal for policy and legislation
22 Stores and stationery, both imported and indigenous required for Federal Departments	*Federal*
23 Control of petroleum and explosives	Federal for policy and legislation
24 Geological Survey of India	Federal
26 Botanical Survey of India	Federal
27 Inventions and designs	Federal for policy and legislation
28 *Copyright* . . .	*Federal for policy and legislation.*
29 Emigration from, and immigration into India	Federal.
31. Federal police organisation	Federal
32 Traffic in arms and ammunition	Federal for policy and legislation
33 Central agencies and institutions for research (including observatories) and for professional and technical training or promotion of special studies	Federal as regards future agencies and institutions
37 Survey of India	Federal
38 Meteorology	Federal
39 Census	Federal for policy and legislation, the States reserving administration
39a All-India statistics	Federal
40 Federal services	Federal
44 Immovable property acquired and maintained at the cost of the Federal Government	Federal
47 The Public Service Commission	Federal for the purpose of Federal services

Sub-Committee No. 1. (Federal Structure).

Second Report, presented at the Meeting of the Committee of the whole Conference held on 15th January, 1931.

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1. *Introductory.*—The sub-Committee consisted of the following members:—

British Delegations:—

The Lord Chancellor (*Chairman*).

Mr. Lees Smith, M.P.

The Earl Peel.

The Right Hon. Sir Samuel Hoare, Bart., M.P.

The Marquess of Reading.
The Marquess of Lothian.

Indian States Delegation:—

H H The Maharaja of Bikaner.
H H The Nawab of Bhopal.
Nawab Sir Muhammad Akbar Hydari, Hyderabad.
Sir Mirza M. Ismail, Mysore.
Colonel Haksar, Special Organisation, Chamber of Princes.

British India Delegation:—

The Right Hon Sriniyasa Sastri, Madras.
Sir C. P. Ramaswami Aiyar, Madras.
Diwan Bahadur Ramaswami Mudaliyar, Madras.
Mr Jayakar, Bombay.
Mr. M A. Jinnah, Bombay.
Sir Tej Bahadur Sapru, United Provinces.
Mr T. F. Gavin Jones, United Provinces.
Sir Muhammad Shafi, Punjab.
Sardar Sahib Ujjal Singh, Punjab.
Sir Sayed Sultan Ahmed, Bihar and Orissa.

In addition, Sir B N. Mitra attended most of the meetings of the sub-Committee and gave it the benefit of his advice and assistance.

2. It must be clearly understood that although agreement has been reached by a majority of the sub-Committee on many important matters, such agreement is only provisional, and every member followed the example of Lord Reading, who said that the understanding had been from the outset that it would be open to all members, when they came to consider the complete proposals for the Federal constitution, to modify or change any provisional assent they might have hitherto given. Every member of the sub-Committee reserves to himself the right of modifying his opinion before the final picture is completed. This is the attitude of British and Indian members alike. Over and above that, upon the basic assumption set out in paragraph 8, Lord Peel and Sir Samuel Hoare, with the information at their disposal, and with so many questions still undecided, are unconvinced that the kind of Executive envisaged in this Report can be successfully adapted to the special conditions of an All-India Federation. They, therefore, desire to see further explored methods for increasing Indian control over the Federal Government that are better suited to All-India needs than those founded upon British precedents Apart from this Lord Peel and Sir Samuel Hoare are not satisfied that the safeguards recommended for securing Imperial obligations will prove effective, and, in particular, they fear that the financial

proposals outlined in paragraphs 18 to 22 inclusive will disturb th confidence of the commercial classes and impair the stability o Indian credit. They wish, however, to place on record their appre ciation of the progress that has been made in the elucidation of a contentious and difficult problem, and their readiness to co-operate with sympathetic and unprejudiced minds in its further investi- gation.

Upon the question of finance, Indian opinion was that even the safeguards set out in the Report went too far, especially those giving special powers to the Governor-General.

3. The vexed Hindu-Muslim question was referred to by Sir Muhammad Shafi on behalf of the Muslim Delegation, and he made it clear that as far as he was concerned he could not consent finally to frame any constitution unless the Hindu-Muslim question was settled. To this view Mr. Jinnah gave his adherence, on the ground that no constitution would work unless it embodied provisions which gave a sense of security to the Muslims and other minorities. He further objected to some details of the Report. Other Delegates, again, stated that their final opinion upon details was not yet formed, and that they desired, before they came to a conclusion, to ascertain public opinion upon such details, both in India and in England.

4. The Indian States do not desire either to discuss or vote upon questions which concern British India alone, and are of opinion that these questions should be definitely excluded. Nor do the Indian States contemplate that any question of paramountcy will come at any time within the purview of the Federal Government.

The sub-Committee publish the Report subject to these reservations.

5. In their interim Report of 12th December, the sub-Committee indicated their view of the component elements of the Federation, which is contemplated as the future polity for India, and recommended that these elements should be represented in both Chambers of a bicameral Federal Legislature. They also put forward a provisional list (which is reproduced in the Appendices referred to in paragraph 37 of this Report) of the subjects upon which this Legislature should be empowered to pass laws having application throughout all units comprised in the Federation. In a later part of the present Report it will be the duty of the sub-Committee to supplement the provisional recommendations thus made with regard to the competence of the Federal Legislature. There are some matters which, although the Federal Government and Legislature will not at present have jurisdiction in respect of them in the Indian States, will none the less require co-ordination in the areas comprised by the British Indian units of the Federation. These subjects also are indicated in the Appendices referred to in paragraph 37 of this Report. The sub-Committee desire in this connection to emphasise once more the conviction, to which they gave expression in paragraph 12 of their previous Report,

that it is the Federal Legislature itself which should perform this co-ordinating function. Their reasons for this view are in part the desire to avoid the inevitable complexities which would arise from setting up a separate authority to deal with subjects not completely federalised, but an even more important reason is that it is, in the sub-Committee's opinion, essential to the development of the Federal idea that the new constitution should contain within itself facilities for its own development, and that nothing should be done in designing the structure embodying it which would be calculated to hamper the natural evolution of a Greater India.

The further Heads which were referred to the sub-Committee and are now under discussion are:—

(4) *The number of members composing each Chamber of the Federal Legislature, and their distribution among the federating units,*

(5) *The method whereby representatives from British India and from the Indian States are to be chosen;* and

(6) *The constitution, character, powers and responsibilities of the Federal Executive.*

These three Heads the sub-Committee now proceed to discuss.

6 The sub-Committee do not, of course, claim to have evolved in all its details a complete plan for the Federal constitution. They consider that the best service they can render to the Conference is to state certain general principles and record conclusions on certain points with regard to which there appeared to be general or substantial agreement, and then to indicate the lines which further detailed examination on the subject ought, in their view, to follow. Many points have necessarily been left open which will have to be settled later after public opinion both in India and in England has had an opportunity of expressing itself upon them, in order that the completed constitution may be based on the largest measure of public approval in both countries

THE EXECUTIVE.

7. The sub-Committee consider that it will be convenient to deal, in the first instance, with the last of the three Heads, namely:—

Head (6). *The constitution, character, powers and responsibilities of the Federal Executive*, since, as was more than once pointed out in the course of their deliberations, the view taken upon these matters may materially affect decisions upon the structure of the Legislature, the nature of its functions and the methods adopted for enabling these functions to be performed.

8. *Responsibility of the Executive.*—The Report which follows proceeds on the basic assumption that the constitution will recognise the principle that, subject to certain special provisions more particularly specified hereafter, the responsibility for the Federal Government of India will in future rest upon Indians themselves.

9. *Method of providing for this.*—In the opinion of the sub-Committee the proper method of giving effect to this principle is, following the precedent of all the Dominion constitutions,* to provide that executive power and authority shall vest in the Crown, or in the Governor-General as representing the Crown, and that there shall be a Council of Ministers appointed by the Governor-General and holding office at his pleasure to aid and advise him. The Governor-General's Instrument of Instructions will then direct him to appoint as his Ministers those persons who command the confidence of the Legislature, and the Governor-General, in complying with this direction, will, of course, follow the convention firmly established in constitutional practice throughout the British Commonwealth of inviting one Minister to form a Government and requesting him to submit a list of his proposed colleagues.

10. *Definition of Responsibility.*—The Governor-General, having thus chosen as his Ministers persons who possess the confidence of the Legislature, it follows that they will retain office only so long as they retain that confidence. This is what the sub-Committee understand by the responsibility of Government to Legislature, in the sense in which that expression is used throughout the British Commonwealth. The expression also implies in their view that the Ministry are responsible collectively and not as individuals, and that they stand or fall together.

11. *Safeguards.*—It is, however, admitted that this broad statement of the principle of responsible government at the Centre, which will be the ultimate achievement of the constitution now to be framed, requires some qualification. There was general agreement in the sub-Committee that the assumption by India of all the powers and responsibility which have hitherto rested on Parliament cannot be made at one step and that, during a period of transition—

(i) The Governor-General shall be responsible for Defence and External Relations (including relations with the Indian States outside the federal sphere) and that

(ii) in certain situations, hereafter specified, which may arise outside the sphere of those subjects, the Governor-General must be at liberty to act on his own responsibility, and must be given the powers necessary to implement his decisions.

12. *Governor-General's advisers on reserved subjects.*—It was generally agreed that the presence of a person occupying the position of a Minister would be necessary to express the views of the Governor-General on Defence matters in the Legislature, since these will impinge upon strictly federal matters; the same is true of External Relations but there was not an equal measure of agreement with regard to the appointment of a person to represent the

*e.g. Ss. 9 to 11 of the British North America Act, 1867;
Ss. 8 and 9 of the Union of South Africa Act, 1909;
Ss. 61 and 62 of the Commonwealth of Australia Constitution, 1900.

Viceroy in this latter subject. It is clear, however, that the Governor-General must be at liberty to select as his representatives in the reserved sphere any persons whom he may himself choose as best fitted for the purpose, and that on appointment they would, if holding Ministerial portfolios, acquire the right like other Ministers of audience in either Chamber of *the Legislature*. The suggestion was pressed that any persons so appointed should be regarded as ordinary members of the Council of Ministers, notwithstanding that they would be responsible to the Governor-General and not to the Legislature, and that they should be regarded as liable to dismissal (though they would remain eligible for re-appointment by the Governor-General) with the rest of their colleagues. It is difficult, however, to see how this position could be reconciled with the principle of the collective responsibility of Ministers, and the sub-Committee find themselves unable to come to any definite conclusions on the matter, though they are of opinion that it merits much more careful examination than they have, in the time at their disposal, been able to give to it.

13. *Position of the Governor-General in relation to his Cabinet.*—With this subject is to some degree involved the question of whether the Governor-General should himself preside over the meetings of his Ministers. In the view of the sub-Committee no hard and fast rule can be laid down. It is clear that, especially in the transition period, occasions may often arise in which his presence would be desirable, and indeed, in certain contingencies, necessary. In these circumstances, it appears to the sub-Committee that the better course would be to provide in his Instructions that he shall preside when he thinks it desirable to do so, leaving the matter to his own discretion and good sense. It is, however, essential that the Governor-General shall be kept at all times fully informed of the state of public affairs and have the right to call for any papers or information which are at his Minister's disposal.

14. *Governor-General's powers in relation to reserved subjects.*—It follows from the fact that the Governor-General will be himself responsible for the administration of the reserved subjects described above, that he should not be dependent for the supply required for them upon the assent of the Legislature, and that the annual supply for their service should be treated, along with other matters to be presently specified, in a manner analogous to the Consolidated Fund Charges in the United Kingdom. The budget allotment would be settled upon a contract basis for a term of years. It would further be necessary to empower the Governor-General in the last resort to take such steps as may be necessary to ensure that the funds required for the reserved subjects are forthcoming and also to secure emergency supply for these subjects in excess of the contract budget (*e.g.*, in connection with a sudden outbreak of hostilities on the Frontier). It follows that he should be empowered to secure the enactment of such legislative measures as may be essential for the discharge of his responsibility for these subjects.

15. The sub-Committee anticipate that in the event of its becoming necessary to use these powers the Governor-General would not ordinarily do so without consulting his Ministers, even though the responsibility for any action taken will be his and not theirs.

16. *Governor-General's special powers.*—With regard to subjects in the administration of which the Governor-General would normally act on the advice of his Ministers, it was generally agreed that arrangements must be made whereby in the last resort the peace and tranquillity of any part of the country must be secured, serious prejudice to the interests of any section of the population must be avoided, and members of the Public Services must be secured in any rights guaranteed to them by the constitution. It was further agreed that for these purposes the Governor-General must be empowered to act in responsibility to Parliament and to implement his decisions if occasion so demands by requiring appropriation of revenue to be made, or by legislative enactment.

17. *Use of the Governor-General's special powers.*—Stress was laid in some quarters of the sub-Committee on the necessity of so defining the use of these powers that they should not be brought into play, in derogation of the responsibility of Ministers, for the purpose of day-to-day administration. It is obvious that the Governor-General would consider his relations with his Ministers and the Legislature before making use of these powers. He will have every inducement to stay his hand as long as possible and to be slow to use his own powers in such a way as to enable his Ministers to cast upon him a responsibility which is properly theirs.

18. *Finance. Special provisions.*—In the sphere of Finance, the sub-Committee regard it as a fundamental condition of the success of the new constitution that no room should be left for doubts as to the ability of India to maintain her financial stability and credit, both at home and abroad. It would therefore be necessary to reserve to the Governor-General in regard to budgetary arrangements and borrowing such essential powers as would enable him to intervene if methods were being pursued which would, in his opinion, seriously prejudice the credit of India in the money markets of the world. The sub-Committee recommend, with a view to ensuring confidence in the management of Indian credit and currency, that efforts should be made to establish on sure foundations and free from any political influence, as early as may be found possible, a Reserve Bank, which will be entrusted with the management of the currency and exchange. With the same object again, provision should be made requiring the Governor-General's previous sanction to the introduction of a Bill to amend the Paper Currency or Coinage Acts on the lines of Section 67 of the Government of India Act. They are further agreed that the service of loans, with adequate provision for redemption, by Sinking Funds or otherwise, and the salaries and pensions of persons appointed on guarantees given by the Secretary of State, should be secured, along with the supply required for the Reserve Departments, as Consolidated Fund Charges.

19. With these limitations the sub-Committee do not contemplate any differentiation between the position of the Finance Minister and that of any other Minister responsible to the Legislature, and in regard to taxation, fiscal policy and expenditure on objects other than those under the Governor-General's control, he would be responsible only to the Legislature. In this connection the sub-Committee take note of the proposal that a Statutory Railway Authority should be established, and are of opinion that this should be done, if after expert examination this course seems desirable

20 The sub-Committee recognise that it may be difficult in existing conditions to set up a Reserve Bank of sufficient strength and equipped with the necessary gold and sterling reserves immediately, and that, therefore, until this has been done some special provisions will be found necessary to secure to the Governor-General adequate control over monetary policy and currency.

21. *Governor-General's ordinary powers*—The sub-Committee assume that in addition to the special powers indicated above the Governor-General will continue to have, as at present, the right of refusing his assent to legislative measures, and of returning a Bill for reconsideration, and, subject to any Instructions issued to the Governor-General, that the existing powers of reservation and disallowance will remain.

22. *Bills affecting Religion and Commercial discrimination*—The question whether Bills relating to such matters as the religion or religious rites and usages of any class of the community should require the Governor-General's previous sanction to introduction will require consideration, as will also the question of discrimination between different sections of the community in matters of trade and commerce. There was general agreement that in these matters the principle of equality of treatment ought to be established, and various methods were suggested for the purpose. The sub-Committee content themselves, however, with saying that it is one which should be further examined and discussed in consultation with the various interests concerned.

23 *Breakdown of Constitution.*—In the event of a situation unhappily arising in which persistent and concerted action has succeeded in making the constitution unworkable, adequate powers will have to be vested in the Governor-General for the purpose of enabling the King's Government to be carried on.

THE LEGISLATURE.

STRUCTURE AND COMPOSITION

24 Such being their views as to the character and responsibility of the Executive, the sub-Committee are now in a position to consider in relation to these views—

(4) *the number of members composing each Chamber of the Federal Legislature, and their distribution among the federating units;* and

(5) *the method whereby the representatives from British India and from the Indian States are to be chosen.*

25. *General Principles.*—The general aim of Federal constitutions has been to provide one legislative chamber which represents primarily all the federating units as such, often on a basis of equal representation for each unit, and a lower chamber which represents, primarily, the population of the whole federal area; and in applying this plan, constitution-makers have commonly provided that the representatives of the federating units in the distinctively federal chamber shall be chosen by the Governments or Legislatures of those units, while the representatives of the population of the federal area shall be returned by some more popular form of election: it has commonly been provided further that the distinctively federal chamber should be the smaller of the two. But India's own practical needs and conditions must be the governing factors, and no constitution, however theoretically perfect, and however closely modelled upon precedents adopted elsewhere, is likely to survive the tests of experience unless it conforms to the needs and genius of the country which adopts it, and unless it is capable of adaptation and modification as the character of these needs is proved in the working. To meet these needs the federal organisation must be conceived not as a rivalry of conflicting elements, but as a partnership for the devising and efficient application by common consent of policies required in the common interest. For such a partnership the stability of the Federal Government is of the first importance.

26. *The Upper Chamber.*—The discussion which took place in the sub-Committee on Heads 4 and 5 proceeded without any prior decision upon the all-important question of the relations between, and the respective powers of, the two chambers; and it may well be that some of the opinions now provisionally expressed will require revision. But proceeding simply on the basis that there will be two Chambers, the Upper smaller in size than the Lower, and without any decision as to the relations of one to the other, the balance of opinion was to the effect that the Upper Chamber—which might be described as the Senate—of the Federal Legislature should be a small body, of from 100 to 150 members, whose qualifications should be such as will ensure that it is a body of weight, experience and character. It was thought that this object might be secured by prescribing for the candidature of the British India members qualifications similar to those now in force for the Council of State, and the sub-Committee have no doubt that the Rulers of the Indian States, in selecting their representatives, will ensure that they are persons of similar standing.

Method of election to Upper Chamber.—The sub-Committee are almost unanimously of opinion that the British Indian members of the Senate should be elected by the provincial legislatures, by the single transferable vote.

27. *Life of the Upper Chamber.*—The Senate itself should not be subject to dissolution like the Lower House, but a fixed proportion of its members would retire and be replaced (or re-elected as the case may be) at regular periods.

28. *Distribution of Seats in Upper Chamber.*—As regards the distribution of seats in the Senate between the States and British India respectively the sub-Committee have to report a difference of view. The States' representatives on the sub-Committee pressed strongly for equality of distribution as between the States and British India. The British Indian representatives, on the other hand, were disposed to claim on such grounds as area and population, a preponderance of seats for British India, but though opinions differed as to the precise degree of "weightage" to be conceded to the States, the sub-Committee are unanimous that some "weightage" must be given, and that a distribution of seats as between the States and British India on a strict population ratio would neither be defensible in theory nor desirable in practice. The sub-Committee trust that if the conference fails to reach unanimity on this point, a satisfactory solution may yet be found as the result of discussion and accommodation hereafter.

29. *Distribution of Seats in Upper Chamber between Provinces.*—Granted a solution of this question, it has still to be considered how the seats available to the States and British India respectively are to be distributed amongst the individual units of each class. So far as the States are concerned, this must clearly be a matter for agreement by their Rulers in consultation between themselves and, if necessary, with the Viceroy. Difficult problems of grouping are involved but these matters are outside the scope of the Conference. As regards the Provinces, precedents of other Federal constitutions could no doubt be cited in favour of complete equality as between Province and Province, and there was some opinion in the sub-Committee in favour of this plan. But while the opportunity should no doubt be taken for departing from the traditional apportionment as between Province and Province which has survived in the Chambers of the existing Indian Legislature, the sub-Committee are doubtful whether an arrangement which gave, for instance, to Assam with its 7½ millions of inhabitants, and Bengal with its 46½ millions, an equal voice in the counsels of the Nation, would commend itself to general public opinion. On the whole the sub-Committee would be disposed to regard a distribution as between Province and Province on a population ratio as the most convenient and satisfactory arrangement.

30. *The Lower Chamber: Size.*—The trend of opinion as to the size of the Lower Chamber was that it should consist of approximately 300 members, thus providing roughly one representative 'or each million of the inhabitants of India. On the other hand he view was strongly expressed that the requirements of fficiency would not be met if the Chamber were to ex-ed 200 as a maximum. The sub-Committee as a whole cognise the force of these considerations, and also of the d

for a Chamber of sufficient size to afford a reasonable approach to adequate representation of the population. But since no real approach to this latter ideal could be secured without enlarging the Legislature to an undue extent, the sub-Committee think that having regard to the great importance which must be attached to efficiency of working, 250 should be adopted as the number of seats to be provided in the Lower Chamber.

31. *Distribution of Seats in the Lower Chamber.*—In the Lower Chamber the Indian States' Delegation do not claim, as they do in the Senate, equality of representation with British India, but here also they claim some greater representation than they would obtain on a strict population ratio. The British Indian representatives on the sub-Committee were not, however, disposed to contemplate a distribution as between themselves and the States in this Chamber on any other basis than that of population. On this basis approximately 76 per cent. of the seats would be assigned to British India and 24 per cent. to the States. But while the latter view must be recorded as that of the majority of the sub-Committee, a substantial minority would regard so great a disparity between the two classes of units as inconsistent with and inimical to the ideal which the Conference has set before itself, and the minority wish strongly to urge upon their colleagues the desirability of subordinating theory to expediency in the interests of goodwill. No Conference can hope to bear fruit unless its members approach their task in a spirit of accommodation, and accommodation in this matter is, they are confident, not beyond the reach of Indian statesmanship.

The question of the respective powers of the two Chambers, which has been touched upon in paragraph 26, has also an obvious bearing on the matter.

32. *Method of election to Lower Chamber.*—Here again the sub-Committee regret that they are unable to record a unanimous view. The British Indian representatives almost without exception favour direct election by constituencies arranged on a plan generally similar to that of the "general constituencies" for the existing Legislative Assembly. They maintain that this method of election has not proved in practice inconvenient or unworkable, that such inconvenience as it has hitherto presented will be diminished with the increase which they contemplate in the number of seats available and the consequent decrease in the size of constituencies, that ten years' experience has firmly established it in popular favour, and that resort to any method of indirect election would not be accepted by Indian public opinion. Other members of the sub-Committee are unable to contemplate as a fitting repository of power and responsibility of Chamber whose members would have so exiguous a link between themselves and the population of the areas they would purport to represent as would be provided by any system of direct election. Assuming for the sake of argument that as many as 200 seats were available for British Indian representatives, they note that the average size of a constituency would be

some 4,000 square miles, and that if due allowance is ma the comparatively small areas of the urban constituencies general average would be even higher. They note that the chise sub-Committee have refrained from making any recomme tion on the franchise for the Federal Legislature: conseque they cannot bring themselves to regard as popular representa according to the accepted canons of parliamentary governmen system which provides for the "election" of members by average number of some 5,000 electors scattered over an avera area of some 4,000 square miles, and this difficulty would n be removed by an increase in the average number of electors b a lowering of the franchise, for an increase in the number of th voters in such vast constituencies would merely increase the diffi culties of establishing contact between the candidate and the voter. But apart from these practical difficulties, some members of the sub-Committee feel strongly that, in the geographical conditions of India, any system of direct election would seriously prejudice the success of the Federal ideal. In their view it is of the utmost importance that the tie between the Centre and the units should be as closely knit as possible, and that it should be a tie of natural affinity of outlook and interest and capable of counteracting the centrifugal tendencies which, but for such a counterpoise, will be liable to develop in the Provinces from the increased autonomy now in prospect. In the opinion of those who hold this view the only satisfactory basis for representation in either Chamber of the Federal Legislature is election by the Legislatures of the Provinces. This need not involve the mere reproduction of the Lower Chamber on a smaller scale, if, as is suggested in this Report, special qualifications are prescribed for membership of the Senate. But if this plan is not adopted, and the view prevails that the members of the Assembly should be chosen to represent the populations of the units rather than their Governments or Legislatures, those members of the sub-Committee who are opposed to direct election desire to point out that it is not a necessary consequence of a decision in this sense that the populations of the areas should elect their representatives directly. Various devices are known to constitution-makers as alternatives to direct election, and they would strongly urge that every possible alternative should be explored before a final decision is taken.

33. *Life of the Lower Chamber*.—The sub-Committee are of opinion that the term of the Lower Chamber should be five years, unless sooner dissolved by the Governor-General.

34. *Representation of special interests and of the Crown in Federal Legislature*.—Two further points remain to be mentioned in regard to the composition of the Federal Legislature. [illegible]

Secondly, in their interim Report, the sub-Committee expressed the view that so long as there are any reserved subjects the Crown should be represented in both Chambers. While the sub-Committee unanimously maintain that recommendation, further discussion has disclosed a difference of view as to the functions of the Crown nominees, and as to their numbers. Some members of the sub-Committee consider that their attendance should be solely for the purpose of explaining the Governor-General's policy on his behalf, and that they should not exercise the right to vote in divisions. Others are of opinion that these persons should be full members of the Legislature. Some members of the sub-Committee consider again that the only nominees of the Crown should be the principal advisers of the Governor-General in the administration of the reserved subjects, while others think that the Governor-General should be empowered to nominate a specified number of persons, not exceeding, say, 10, to each Chamber.

35. *Means of securing stability for the Executive.*—The relation of the two Chambers to one another has been touched on above, but a particular aspect of the relation of the Chambers to the Executive was a subject of discussion in the sub-Committee and should be mentioned here. For the purpose of securing greater stability to the Executive the suggestion was made, and found a large measure of support, that Ministers should not be compelled to resign save in the event of a vote of no confidence passed by a majority of at least two-thirds of the two Chambers sitting together. Ministers against whom less than two-thirds of the votes have been cast on a motion of no confidence would not, however, for that reason alone continue to enjoy to any greater extent than before the confidence of the Legislature who would be still able in other ways to make effective their want of confidence. But the sub-Committee are of opinion that some means should be devised whereby, in the interests of stability, an adverse vote should not on every occasion necessarily involve the resignation of the Ministry, and that the subject should be further explored.

36. *Position of States' representatives in relation to matters affecting British India only.*—Since the functions of the Federal Government will extend beyond the range of federal subjects and will embrace those matters which are strictly the concern of British India alone, it has to be decided whether the States' representatives in the Federal Legislature should take any part in the debates and decisions on this latter class of matters with which *ex hypothesi* they will not be directly concerned. There is much to be said in favour of treating all members of the Federal Legislature as entitled and empowered to contribute their share towards the decision of all matters within the range of the Legislature's duties. It would be clearly impossible, so far as the Executive is concerned (which will, like the Legislature, be composed of representatives of both States and British India) to differentiate the functions of Ministers in such a way as to confine the responsibilities of States' representatives to Federal matters; no workable scheme could be devised with this object which would not

cut at the root of the principle of collective responsibility in the Cabinet For this reason the States desire—with the general assent of the sub-Committee—that their representatives in the Legislature should play their part equally with their British Indian colleagues in expressing the decision of the Legislature on any *question which involves the existence of the Ministry, even if the* matter which has given rise to the question of confidence is one which primarily affects British India only At the same time Their Highnesses would prefer that the States' representatives should take no part in the decision of matters which, being outside the range of federal subjects, have no direct interest to the States. It would, no doubt, be possible so to arrange business in the Legislature that Bills or Budget demands of this character should be dealt with either exclusively or in the Committee stage by a Committee (analogous to the Scottish Committee of the House of Commons) consisting of the British Indian representatives alone Some members of the sub-Committee think, however, that it would be unfortunate to initiate such a system of differentiation, and that, *whatever conventions might be observed, it would be undesirable* the contribution which any of on any matter within the Leg that it would be found in practice difficult, if not impossible, to classify a given matter as being one in which the States have no interest or concern, direct or indirect The sub-Committee recommend, however, that the matter be further explored

37 *Competence of the Federal Legislature* —With reference to paragraph 5 of this Report, the reports of two sub-Committees are appended to this Report in which recommendations have been made as to the classification as federal, central or provincial, of all the subjects which are at present within the competence of the Indian Legislature. The sub-Committee endorse egnerally these recommendations, though they recognise that the further expert examination which the matter will undoubtedly require may show the necessity of some modification and adjustment. It will be observed that, apart from the specific recommendations made with regard to the treatment of the several items in the list, there is a general recommendation that legislative co-ordination required in respect of certain provincial subjects, or aspects of provincial subjects, should no longer be secured by the process of submitting Provincial Bills on these subjects for the previous sanction of the Governor-General, but firstly by scheduling certain existing Acts (and the same process would, *of course, be applied to certain Acts of the* Federal Legislature in the future) as being incapable of amendment in their application to a Province by the Provincial Legislature without the previous sanction of the Governor-General and, secondly, by granting concurrent powers of legislation to the Federal Legislature on certain aspects of specified provincial subjects It would be necessary to include a provision that any Provincial Act relating to these subjects which is repugnant to a Federal Act is, to the extent of the repugnancy, to be void.

38. *Residual powers.*—The sub-Committee draw attention to the fact that, however carefully the lists of Federal, Central and Provincial subjects are drawn up, there is bound to be a residue of subjects not included in any of them. Whether these residuary powers of legislation are to rest with the Federal Government or with the Provinces is a matter on which the sub-Committee have come to no conclusion. Its great importance is, however, manifest, and it will need most careful consideration at a later stage.

39. *Control by the Federal Government over Provincial Governments.*—This topic leads naturally to the question of the powers of control to be exercised by the Federal Executive over the Provincial Executive and their nature and extent. It goes without saying that within the range of Federal subjects, the Federal Executive must have authority to ensure that Federal Acts are duly executed in the Provinces; it also goes without saying that within States' territory there can be no question of the exercise of any such authority, direct or indirect, outside the strict range of Federal subjects. But it seems equally evident that in matters affecting more than one Province of British India, even where they relate to subjects classified as Provincial, there must be some authority capable of resolving disputes and of co-ordinating policy when uniformity of policy is in the interests of India as a whole, and the sub-Committee consider that the constitution should recognise this authority as vesting in the Federal Government and should make suitable provision for its exercise.

Signed on behalf of the sub-Committee,

SANKEY,
Chairman.

ST. JAMES'S PALACE,
LONDON;
13th January, 1931.

APPENDIX I TO SECOND REPORT OF SUB-COMMITTE No. I.

CLASSIFICATION OF CENTRAL AND PROVINCIAL SUBJECTS.

REPORT OF JOINT COMMITTEE OF SUB-COMMITTEES NOS. 1 AND 2.

The Joint Committee* of the Federal Structure sub-Committee and the Provincial Constitutional sub-Committee was appointed to consider in detail the lists of subjects circulated as R.T C. [F. (S)] 3, Categories A, B, C and D only, and to suggest a provisional classification into three Categories:—

(a) exclusively Central,

(b) exclusively Provincial,

(c) subjects in which the Centre and the Provinces are both interested and which might therefore be subject to central co-ordination, and to make any suggestions that they think fit as to the method to be adopted for securing this co-ordination

We have considered the various subjects and make the recommendations shown in the right-hand column of the attached Tabular Statement. The enumeration is that of the present list of Central and Provincial subjects, Devolution Rules, Schedule I

6th January, 1931

(Signed) ZETLAND,
Chairman.

Proposed Classification of the Indian Central Subjects as detailed in Devolution Rules, Schedule I, Part I

(Enumeration is that of the present list of the Indian Central Subjects.)

A Those which are proposed to be wholly or partly federalised.

B Those no portion of which is proposed to be federalised.

A: Central subjects which are proposed to be wholly or partly federalised.

The description of subjects in the Devolution Rules	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised	The recommendation of the Joint Committee of sub-Committees Nos I and II regarding the classification of the residue into three Categories (a) Exclusively Central (b) Exclusively Provincial (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination
5. Communications to the extent described under the following heads, namely (i) Railways and extra municipal tramways in so far as	Railways (including railways to be constructed or acquired in future).	Present position should be maintained.

* For membership, see list at end of tabular statement

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories: (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
they are not classified as provincial subjects.	*Federal* for policy and legislation. Administration to be Federal to the extent of powers now exercised by the Railway Board.	
(b) Aircraft and all matters connected therewith.	Federal . . .	—
(c) Inland waterways to an extent to be declared by rule made by G. G. in C. or by or under legislation by the Indian Legislature.	Federal for policy and legislation in respect of inland waterways affecting more than one unit.	The Committee is informed that as the administration is provincial there is no residue left for classification. But for steamships *see* list C, item 31.
6. Shipping and navigation (including shipping and navigation of inland waterways in so far as declared to be a central subject under entry 5 (c).	Federal for policy and legislation.	The present position should be maintained.
7. Lighthouses (including their approaches), beacons, lightships and buoys.	Federal . . .	—
8. Port Quarantine and Marine Hospitals.	Federal as far as international requirements are concerned.	There are no marine hospitals. The only residue is inter-provincial shipping which should be a central subject.

The description of subjects in the Devolution Rules	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of th[e] Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination
9. Ports declared to be major ports by rule made by the G. G. in C. or by or under legislation by the Indian Legislature.	Such ports to be Federal as are declared to be major ports by rule made by Federal Government or by or under legislation by the Federal Legislature subject in the case of Indian States to such extent as authority may be delegated by the States under a convention.	There is no part of the central subject left which is not federalised.
10 Posts, telegraphs, telephones including wireless installations.	Posts, telegraphs, *trunk* telephones and wireless installations to be Federal; but with such qualifications as may be necessary for the purposes of adjustment with the States in matters of detail	The Committee thinks that for technical reasons the local telephones in British India cannot be made a provincial subject. Sir B. N Mitra suggests that the entry in the second column should be amended as follows — "Posts, telegraphs, telephones—excepting local (i.e., non-trunk) telephones—in Indian States and wireless installations."
11. Customs . . .	*Maritime Customs* Federal subject to special adjustment with maritime States having regard to their treaties, engagements and agreements. *Customs on external Frontier of Federated India* Federal on the lines of maritime customs subject to the special case of Kashmir	— —

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories: (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
Income-Tax . .	—	Should be Central as at present. Whether any surcharge should be imposed by the Provinces and whether any portion of the revenue should go to the Provinces are matters beyond the terms of reference to the Committee.
Salt . . .	Federal . . .	—
Other sources of all-India Revenue.	—	As regards these (including excise on motor spirit and kerosine) the position should remain as at present.
12. Currency and Coinage .	Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.	—
13. Public debt of India .	Public debt of Federal India (power to raise Federal Loans) should be Federal.	The public debt of India on the date of the inauguration of the Federal constitution should be a central subject.
14. Savings Banks . .	Federal for policy and legislation regarding Post Office Savings Banks.	Since it was not clear to what Savings Banks, other than Post Office Savings Banks, this entry may refer, we have no recommendation to make.
15. The Indian Audit Department.	Federal audit to be Federal.	Provincial accounts should be a provincial subject. As regards audit the general sense of the Committee was that it should be a central subject, but a substantial minority thought that the audit of provincial accounts should be a provincial subject.

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of th[e] Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories (a) Exclusively Central. (b) Exclusively Provincial (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination
17. Commerce (including banking and insurance).	Federal for policy and legislation	Should be Central to the extent to which it is at present
18 Trading Companies and other associations.	Do	Do.
20 Development of industries, in cases where such development by central authority is declared by order of the Governor-General in Council made after consultation with the local Government or local Governments concerned expedient in the public interests.	Development of Industries to be a Federal subject in cases where such development by Federal Authority is declared by order of the Federal Government made after negotiation with and consent of the federating units	Development of industries should remain Provincial to the extent to which it is not federalised.
21 Control of cultivation and manufacture of opium. Sale of opium for export.	Federal for policy and legislation	The position should be maintained as at present.
22 Stores and stationery both imported and indigenous required for Imperial Departments.	Stores and stationery both imported and indigenous required for Federal Departments to be Federal	As regards non-Federal Central Departments the subject should be under the control of the Centre.
3 Control of petroleum and explosives	Federal for policy and legislation.	The position should be maintained as at present
Geological Survey of India	Federal . . .	—
Botanical Survey of India.	Federal . . .	—

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories: (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
Income-Tax . .	—	Should be Central as at present. Whether any surcharge should be imposed by the Provinces and whether any portion of the revenue should go to the Provinces are matters beyond the terms of reference to the Committee.
Salt . . .	Federal . . .	—
Other sources of all-India Revenue.	—	As regards these (including excise on motor spirit and kerosine) the position should remain as at present.
12. *Currency and Coinage*	*Federal, subject to adjustment with the States concerned of such rights as are not already conceded by them.*	—
13. Public debt of India .	Public debt of Federal India (power to raise Federal Loans) should be Federal.	The public debt of India on the date of the inauguration of the Federal constitution should be a central subject.
14. Savings Banks . .	Federal for policy and legislation regarding Post Office Savings Banks.	Since it was not clear to what Savings Banks, other than Post Office Savings Banks, this entry may refer, we have no recommendation to make.
15. The Indian Audit Department.	Federal audit to be Federal.	Provincial accounts should be a *provincial* subject. As regards audit the general sense of the Committee was that it should be a central subject, but a substantial minority thought that the audit of provincial accounts should be a provincial subject.

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos I and II regarding the classification of the residue into three Categories (a) Exclusively Central. (b) Exclusively Provincial (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
17. Commerce (including banking and insurance).	Federal for policy and legislation	Should be Central to the extent to which it is at present.
18 Trading Companies and other associations.	Do . .	Do.
20 Development of industries, in cases where such development by central authority is declared by order of the Governor-General in Council made after consultation with the local Government or local Governments concerned expedient in the public interests.	Development of Industries to be a Federal subject in cases where such development by Federal Authority is declared by order of the Federal Government made after negotiation with and consent of the federating units	Development of industries should remain Provincial to the extent to which it is not federalised.
21. Control of cultivation and manufacture of opium. Sale of opium for export.	Federal for policy and legislation	The position should be maintained as at present.
22 Stores and stationery both imported and indigenous required for Imperial Departments.	Stores and stationery both imported and indigenous required for Federal Departments to be Federal.	As regards non-Federal Central Departments the subject should be under the control of the Centre.
Control of petroleum and explosives	Federal for policy and legislation	The position should be maintained as at present.
Geological Survey of India	Federal . . .	—
Botanical Survey of India.	Federal . . .	—

The description of subjects in the Devolution Rules.	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding the classification of the residue into three Categories: (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
27. Inventions and designs	Federal for policy and legislation.	The position should be maintained as at present.
28. Copyright . .	Do.	Do.
29. Emigration from and immigration into British India.	Emigration from and immigration into *India*—Federal.	—
Inter-provincial migration.	—	The Committee suggests that the question of making migration between Federal units a Federal subject should be considered.
31. Central police organisation.	Federal police organisation to be Federal.	Central to the extent it is at present.
32. Control of arms and ammunition.	Traffic in arms and ammunition to be Federal for policy and legislation.	The position as regards control of arms and ammunition as apart from traffic in them should be maintained as at present. The provincial Governments should, however, have power to grant exemptions from the requirements of the Arms Act in respect of provincial areas.
33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.	Federal as regards *future* agencies and installations.	As regards existing agencies and institutions the subject should continue to be Central as at present—if it is not federalised.
35. Survey of India .	Federal . . .	—

The description of subjects in the Devolution Rules	The recommendations of the Federal Structure sub-Committee regarding the extent to which they should be federalised	The recommendation of the Joint Committee of sub-Committees Nos I and II regarding the classification of the residue into three Categories (a) Exclusively Central (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination
38 Meteorology	Federal	—
39 Census	Federal for policy and legislation—the States reserving administration	Central to the extent it is at present.
Statistics	All-India Statistics—Federal	—
40 All India Services	Federal Services should be Federal	Central Services should be a central subject. As regards All-India services, the question is for the consideration of the "Services" sub-Committee.
41 Immoveable property in possession of the Governor-General in Council	Immoveable property acquired and maintained at the cost of Federal Government should be Federal.	Immoveable property acquired and maintained at the cost of Central Government should be Central.
. The Public Services Commission.	Federal for the purpose of Federal Services	The Public Services Commission for the Central Services should be a central subject.

B : Central subjects, no portion of which is proposed to be federalised.

The description of the subjects in the Devolution Rules.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three Categories:— (a) Exclusively Central. (b) Exclusively Provincial. (c) In which both the Centre and the Provinces are interested and which might be subject to central legislation.
16. Civil Law, including laws regarding status, property, civil rights and liabilities and civil procedure.	This question has been considered by a special Legal Committee and we therefore refrain from dealing with it. *See* Appendix II.
19. Control of production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature to be essential in the public interest save to the extent to which in such rule or legislation such control is directed to be exercised by a local Government.	The majority of the Committee considered that the Central Government should not retain the power which this entry gives.
25. Control of Mineral Development in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.	The control of mineral development should be entirely a provincial subject, but the regulation of mines should remain a central subject to the extent it is at present.
30. Criminal Law including Criminal Procedure.	*See* No. 16 above.
34. Ecclesiastical administration—including European Cemeteries.	This should be a central rather than a provincial subject. It is, however, to be considered whether it should not be a Crown subject.
36. Survey of India	The present position should be maintained.
37. Zoological survey . . .	Do.
42. Territorial changes—other than inter-provincial and declaration of laws in connection therewith.	The Committee understands that this has already been decided to be a matter to be dealt with under amendments of the constitution.
43. Regulation of ceremonial titles, orders, precedence and civil uniform.	The Committee understands that this has already been decided to be a matter more properly falling under the authority of the Crown.

The Joint Committee considers that a new entry should be made making Services in the centrally-administered areas and expenditure incurred therein a central subject.

Proposed Classification of those of the Provincial subjects in respect of which some control is exercised by the Centre Devolution Rules, Schedule I, Part II.

(Enumeration is that of the present list of the Provincial subjects)

C Provincial subjects which are subject to legislation by the Indian Legislature.

D Provincial subjects specially excepted and those in respect of which extra provincial control is exercised

C: Provincial subjects, subject to legislation by the Indian Legislature.

Description of the subjects in the Devolution Rules	The recommendation of the Joint Committee of sub-Committees Nos I and II regarding their classification into three Categories.— (a) Exclusively Central. (b) Exclusively Provincial (c) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination
Local Self Government 1 As regards (a) The power of local authorities to borrow otherwise than from the Provincial Government, (b) the levying by such authorities of taxation not included in Schedule II of the Scheduled Taxes Rules.	As regards these two matters the Committee thinks that the words "subject to the previous sanction of a central authority to the extent to which such sanction of the Governor-General is now required" should be substituted for the words "subject to legislation by the Indian Legislature".
3 *Public Health, Sanitation and Vital Statistics* As regards infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature	In respect of the specific matter of infectious and contagious diseases in the sphere of public health, which is now subject to legislation by the Indian Legislature, the majority of the Committee are in favour of co-ordination as against legislative control by the Centre
5 *Education* As regards the definition of the jurisdiction of any University outside the Province in which it is situated	We suggest that the full Committee should consider whether this should not be a Federal subject.
Public Works—light and feeder Railways and extra municipal tramways in so far as provision for their construction and management is made by provincial legislation As regards any such railways or tramways which are in physical connection with a main line or are built on the same gauge as an adjacent main line	The present position should be maintained

The description of the subjects in the Devolution Rules.	The recommendation of the Joint Committee of sub-Committees Nos. I and II regarding their classification into three Categories:— (*a*) Exclusively Central. (*b*) Exclusively Provincial. (*c*) In which both the Centre and the Provinces are interested and which might be subject to central co-ordination.
30. *Ports.* Such ports as may be declared by the Governor-General in Council to be major ports by a rule made by the Governor-General in Council or by or under Indian legislation are not provincial but central subjects.	*See* item No. 9 in the list A above.
31. *Inland Waterways.* The Governor-General in Council may declare some to be central subjects.	*See* item No. 5 (*b*) in the list A above.
32. *Police, including Railway Police.* In the case of the Railway Police this control is subject to such conditions as regards limits of jurisdiction and Railway contribut[illegible] to cost of maintenanc[illegible] Governor-General i[illegible] determine.	The present position should be maintained.
39. *Pr*[illegible]	[illegible] No. 39 in the list C above.
[illegible]	[illegible]sition should be maintained[illegible] question of making [illegible]ons Federal should be [illegible]
As[illegible] lev[illegible] proce[illegible] under th[illegible]	[illegible] should be main-
21. *Registration* [illegible] *ments.*	
22. *Registration of b*[illegible] *marriages.* As regards such classes [illegible] dian Legislature may det[illegible]	

[illegible]mbers:—Lord [illegible] Shafi, Sir [illegible] Nawab Sir [illegible] Patro, Sir

...slation as regards State ... with continuance of ... be exclusively Pro... be main-

APPENDIX II TO SECOND REPORT OF SUB-COMMITTEE No. I

CIVIL LAW AND CRIMINAL LAW AND PROCEDURE

REPORT OF THE LEGAL SUB-COMMITTEE OF SUB-COMMITTEE No. I

The Legal [illegible] vincial [illegible] civil and [illegible] on those matters [illegible] authority. They [illegible] to specify or even to indicate [illegible] be reserved for the Central [illegible] to give the Central legislature a wide power of legislation [illegible] think also that it is necessary in the [illegible] of British India as a whole that the uniformity [illegible] which now exists should be maintained. [illegible] the Provincial legislatures should have a wide power [illegible] civil and criminal law for provincial purposes. [illegible] that the objects in view can best be secured by giving the Central legislature a plenary power of legislation on all matters of civil and criminal law and giving Provincial legislatures a concurrent power of legislation except as regards those matters which are necessarily the concern of the Central authority, e.g. laws relating to international obligations, laws for territories not subject to any Provincial legislature and laws affecting any power expressly reserved to the Central authority by any law for the time being in force.

To preserve the uniformity which at present exists the present arrangement should be maintained under which certain important Acts cannot be repealed or altered without the previous sanction of the Governor-General. The Acts are specified in rules made under section 80A (3) (h) of the Government of India Act but the list requires certain alterations and additions.

On all other matters so far as the legislative power of a Provincial legislature is concurrent with that of the Central legislature it should be capable of being exercised without any previous sanction but it should be declared to be subject to legislation by the Central legislature so that in case of a conflict between Central and Provincial legislation the former would prevail. The sub-Committee think that if this plan were adopted Provincial legislatures would have in the field of civil and criminal law a power of legislation which would be sufficient for their needs. To give effect to this plan items 16 and 30 in the Central list should remain as they are, a complementary entry should be made in the Provincial list and provision should be made somewhere in the Act on the lines of section 80A (3) (h) to secure the uniformity desired.

This uniformity should extend to such matters as those covered by the Acts referred to in the rules made under section 80A (3) (h). The list of the Acts contained in the rules will require further examination and must in any case be brought up to date.

31st December, 1930.

N.B.—The sub-Committee consisted of the following members:—Sir Muhammad Shafi, Sir Tej Bahadur Sapru, Sir C. P. Ramaswami Aiyar, Mr. [illegible]nkar, and Mr. Jinnah, with the assistance of Sir Edward Chamier and Maurice Gwyer.

speeches, I quote a few instances from the known federal constitutions of the world to establish our claim Let us take the Federation of Australia, we notice that Western Australia, with an area of 975,920 square miles and a population of 332,732 (1921), and New South Wales, with an area of 310,367 square miles and a population of 1,857,391 (1921), both have equal representation in the Senate with Tasmania, which has an area only of 26,215 square miles and a population of 201,675 (1921)

In Canada the disproportion is not so well marked, but even there we find that the Maritime Provinces Nova Scotia and New Brunswick, which constitute the third division, having an area of 2,360,767 square miles and a population of 2,782,445, that is to say, nearly three million people, have equal representation with Quebec which has only an area of 706,834 square miles and a population of 2,002,712 souls. The principle of equality of representation is, however, more emphatically illustrated by a reference to the constitutions of the United States of America and of the German Empire before the formation of the present Republic In the United States of America, we find that the State of Delaware, with an area of 2,370 square miles and a population of 244,000, enjoys in the Senate equal representation with the State of New York, which has an area of 49,204 square miles and a population of no less than 11,550,000.

Turning to the German Empire, we find that Prussia, with an area of 134,558 square miles and a population of 40,165,219 (1910), possessed only 17 votes in the Federal House, while the rest of Germany, which put together could only claim, speaking roughly, one-third of the total area and one-third of the total population of Germany, enjoyed 41 votes And what is more, the five States of Bavaria, Saxony, Wurtemburg, Baden and Hesse, which amongst themselves could only claim an area of 51,530 square miles and a population of 17,556,577 (1910) possessed 20 votes as against the 17 of Prussia.

I hope it has been sufficiently made clear that a reference to the constitutions of the world proves beyond the shadow of a doubt that area and population do not play any part in the determination of the votes that the federating units must have in the Federal House Coming to our own case, when the separation of Burma from India has been completed, it will be found that Indian States comprise 47 per cent of the total area of India I admit that in population we are much lower in strength than British India, but as I have already pointed out, this is beside the mark It is the status, the sovereignty and the independence of the States which really count Disparity of population between the States and British India which we find to-day is, we claim, entirely based on reasons for which the governments of the Indian States cannot solely be held responsible The reasons for it in brief are that British India has had the advantage of being ruled by a people whose resources for money and material are unlimited The British people, for reasons best known to themselves, have given all their best to British India The States were left severely alone They were deprived of the [illegible] the British connection with [illegible] many cases the States have [illegible] which, if I may say so, has [illegible] people to the detriment of the Indian States who have, in spite of the friendly gestures always been unfortunately regarded as foreign and alien. This has naturally led to an influx of population into British India from the Indian States and has left the Indian States under-developed to an extent that they stand to-day in a position of inferiority to British India as far as development and population go. I would not for one moment deny that there have been other reasons also and that governments in the Indian States also have not in many cases paid due attention to the development of their territories Let us hope that in the future that lies before us we shall get full opportunity to show what the States can do in fair and open competition without the barriers of power and coercion from which t[illegible] the last century They may yet in [illegible]ral, come out, I venture to say, stro[illegible]ministratively. I would, therefore pl[illegible]t to take advantage of the situation in which the Indian States find themselves to-day. I hope they will be fair and just.